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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Report of the High Commissioner submitted pursuant to Commission resolution 1999/54

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Introduction

1. In resolution 48/141 creating the post of United Nations High Commissioner for Human Rights, the General Assembly requested the High Commissioner to report annually on her activities, in accordance with her mandate, to the Commission on Human Rights and, through the Economic and Social Council, to the General Assembly. Pursuant to this request, the High Commissioner has the honour to bring to the attention of the Commission the following reports submitted since her last report to the Commission on Human Rights (E/CN.4/1999/9): report to the Economic and Social Council focusing on the implementation of economic, social and cultural rights and the right to development (E/1999/96), report to the General Assembly at its fifty-fourth session (A/54/36).

2. In its resolution 1999/54 of 27 April 1999, the Commission on Human Rights supported fully the Secretary-General and the High Commissioner in their efforts to strengthen the human rights activities of the United Nations and encouraged the High Commissioner, within her mandate, to continue to play an active role in promoting and protecting all human rights, including in the prevention of human rights violations throughout the world. In view of the stress laid by the Commission on the topic, and mindful of the Secretary-General's call for the new century to be the century of prevention, the present report will focus on the prevention of human rights violations throughout the world. In this context, the High Commissioner recalls the request of the Commission, in its resolution 1999/18, to the High Commissioner and the Secretary-General to take concerted action with the assistance of the international community to develop early-warning procedures in the field of human rights with a view to identifying situations that could lead to conflict or humanitarian tragedy, and requested them to report to the Commission at its fifty-sixth session on their efforts.

I. THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

3. Genocide represents the ultimate negation of the human rights of the individual as well as those of the group of which he or she forms part. It constitutes the most serious denial of the dignity of an entire group and in its starkest form - complete annihilation. Despite the immense suffering of the victims of the Holocaust, and the huge human costs of the Second World War in general, the world has failed to address the lessons of history. In the half century since the Convention on the Prevention and Punishment of the Crime of Genocide was adopted, the international community has not intervened effectively to prevent genocide, for example, in Burundi, Rwanda and the former Yugoslavia, or to bring a halt to the commission of crimes against humanity in Cambodia. The failure of the international community to prevent such massive suffering in the half century since the trials in Tokyo and Nuremberg makes tragically clear the urgency of developing comprehensive measures for combating impunity as well as strong and effective early-warning and conflict-prevention measures to prevent genocide.

4. Fortunately, the international community has made substantial progress in a number of areas directly related to the goal of preventing genocide and other particularly egregious violations of international human rights and humanitarian law in the future. As regards the United Nations human rights programme in particular, the Commission and Sub-Commission have sought to develop concrete ways to eliminate impunity for genocide and other serious violations of international human rights and humanitarian law. Indeed, the international

community has come to the realization that efforts to combat impunity must be integrated within an effective early-warning and conflict-prevention system because serious violations, where left unprosecuted and unpunished, can provide conflict to escalate into open hostilities, and even war. This realization is reflected in the numerous references in Commission and Sub-Commission resolutions to the international criminal tribunals for the former Yugoslavia and Rwanda and to the Rome Statute of the International Criminal Court.

5. In resolution 1999/67, the Commission, recalling that genocide is a crime under international law, welcoming General Assembly resolution 53/43 on the fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide and recalling its own resolution 1998/10 on the subject, stressing the significance of the adoption on 17 July 1998 of the Rome Statute of the International Criminal Court and convinced that the United Nations High Commissioner for Human Rights and the Commission can contribute to preventing situations in which the crime of genocide could be committed, stressed the importance of and the need to implement the Convention.

6. The Genocide Convention reiterates the General Assembly's characterization of genocide as "a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world" and encapsulates its essential elements as a crime by defining it as any act committed with the specific "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such". The Convention prohibits not only killing, but also the causing of serious bodily or mental harm, deliberately inflicting on the group of conditions of life calculated to bring about its physical destruction, imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group. It covers the related crimes of conspiracy, direct and public incitement and attempt to commit genocide and complicity in genocide and applies at all times - during armed conflict, peace and any situation in between. Significantly, the Genocide Convention makes individuals liable to prosecution "whether they are constitutionally responsible rulers, public officials or private individuals" and it envisages the establishment of international mechanisms to enforce individual criminal responsibility for major human rights violations. Article VI provides that persons charged with genocide shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by an international criminal tribunal as may be vested with such jurisdiction.

7. The adoption of the Genocide Convention itself was meant to have a preventive effect. The very title of the Convention emphasizes prevention and, in article VIII, the Convention provides that:

> "Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III."

8. The establishment of the International Criminal Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda sent an important message concerning the prevention of gross violations of human rights and of genocide: whoever commits such violations must be prepared to face the consequences before international criminal tribunals. The adoption of the

Rome Statute of the International Criminal Court constitutes another major milestone on the path leading to the establishment of a standing body to prosecute and punish genocide, war crimes and crimes against humanity.

9. The establishment of a body of human rights and humanitarian observers who can be deployed on an urgent basis in situations where population groups may be at risk could be a valuable addition to the practical options at the disposal of the international community in preventing genocide.

10. The establishment of a Rapid Reaction Force that could be deployed in situations of urgent need with a view to averting conflict or helping to protect groups in danger would also be a valuable addition to efforts for the prevention of genocide. Such a rapid reaction capacity would be a tangible signal of the international community's resolve to prevent genocide.

II. PREVENTION OF RACISM AND RACIAL DISCRIMINATION

11. The United Nations has a global mandate to ensure human rights for all without distinction as to race, ethnicity or national origin. In its endeavour to carry out this mandate, it is increasingly moving away from a stance perceived to be mostly reactive to situations of human rights violations to a more pro-active and preventive approach. This requires improving the capacity of human rights mechanisms to detect situations of potential violations or conflict, in order to defuse them or prevent their escalation.

12. Since its inception, the United Nations has addressed racism and racial discrimination in all its forms. The proclamation of three decades to combat racism and racial discrimination has contributed to raising awareness and mobilizing the international community against this evil. Multilateral treaties have been adopted and Governments have been urged to incorporate their provisions into their national legislation to combat racism and racial discrimination in all sectors, including political, economic, social and penal measures. Studies have been conducted to demystify the pseudoscientific discourse on the "inequality" of different members of the human race.

13. With the recent resurgence of old ethnic, racial and nationalist antagonisms in various forms of intolerance, xenophobia and, in the most extreme cases, ethnic conflict, ethnic cleansing and genocide, United Nations human rights mechanisms are compelled to reflect on situations where the occurrence of racist acts and racial discrimination could degenerate into open conflict, and recommend timely specific and adequate preventive measures. Such measures may include support mechanisms, early-warning systems, confidence-building measures, and structural and institutional support mechanisms to prevent the deterioration of potential racial conflicts.

14. The post-cold-war era has been characterized by contradictory trends. On the one hand, regional and continental associations are evolving new and efficient ways of deepening cooperation and reducing the centrifugal forces of sovereignty and nationalism. National boundaries are eroded by new developments in communication technology and the increasing willingness of States to submit aspects of their sovereignty to common political and economic associations. On the other hand, violent assertions of sovereignty and nationalism are on the

rise, and the integrity of nation States is increasingly challenged by forces of ethnic, cultural or linguistic separation. New phenomena of discrimination present serious challenges to social peace in many countries. As a consequence, many countries are destabilized by internal conflicts.

15. Although ethnic conflicts may be considered autonomous and disparate, these conflicts pose a real threat to international security and generate many forms of human rights violations which must be addressed. Racism, ethnicity or xenophobia appears to be critical factors in the outbreak of many of these intra-States conflicts. Discriminatory practices and/or the manipulation of ethnic, racial or national differences by politicians constitute recurring issues in most situations of open conflicts in States.

16. The United Nations can meet the challenge resulting from the multiplication of conflicts of this nature by identifying criteria for initiating preventive action and by defining adequate responses. Through his report on the causes of conflict and the promotion of durable peace and sustainable development in Africa (A/52/871-S/1998/318), the Secretary-General has initiated a process of reflection on the dynamics of conflicts resulting from violent politicization of ethnicity with a view to developing panaceas. This approach may be broadened to embrace similar situations existing elsewhere, for instance in Europe where violent conflicts have led to the dissolution of some countries and in Asia where the stability of a number of countries is challenged.

17. Criteria for initiating preventive action to deter ethnic, racial or xenophobic conflicts may include: lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, absence of legislation to protect minority rights, inadequate implementation of enforcement mechanisms, including the lack of recourse procedures, a pattern of escalating racial, ethnic or xenophobic hatred and violence, ethnic or racial propaganda or appeal to racial intolerance by persons, groups or organizations, significant flows of refugees or displaced persons resulting from a pattern of ethnic or racial discrimination.

18. Responses to situations of such conflicts designed to reduce tensions and violence based on ethnic, racial or xenophobic conflicts may include: preventive diplomacy, early-warning mechanisms, mediation, promotion of tolerance through human rights education, support to democratic institutions through better representation of all segments of the society, affirmative action, promotion of multiculturalism.

19. A strategy for the prevention of racism and racial discrimination requires, among others, the following courses of action: (a) the articulation of a vision that embraces all parts of the population; all parts of the population should feel that they have a stake in the future of the country; (b) the pursuit of human rights strategies of governance: acceptance and implementation of internationally recognized norms of human rights, including on equality and non-discrimination; (c) the continuous monitoring of the society to detect and address problems; (d) the presence of mediators who can intercede rapidly if needed; (e) the availability of recourse procedures to victims of racism and racial discrimination; (f) programmes of education in human rights and tolerance, especially for the young; (g) the pursuit of equitable development; (h) continuous sensitization and training of law enforcement officials,

(i) conscious efforts to sensitize mass media and Internet service providers to the dangers of racism and to combat the promotion of racist ideas via the Internet, (j) national, regional and international cooperation to prevent racism and racial discrimination.

20. Piece by piece, the building blocks are being assembled for prevention at the international level. A good example is provided by the Committee on the Elimination of Racial Discrimination (CERD). In March 1998, the Committee made formal statements under its early warning and urgent procedures mechanism on the situations in the Democratic Republic of the Congo, Papua New Guinea, Bosnia and Herzegovina and Rwanda. On the situation in Rwanda, for example, the Committee expressed alarm at reports that a new round of genocidal violence had commenced. It noted that the climate of impunity persisting in some areas and the lengthy detention of accused persons under deplorable conditions did not assist the process of ethnic reconciliation.

21. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is expected to amplify the ideas enunciated above. It would present an opportunity to promote the concept of preventive action not only at the international level but also within the domestic jurisdiction of States. It is proposed that Member States explore ways and means of adapting this approach to their internal mechanisms for addressing manifestations of racism, racial discrimination and xenophobia.

III. THE RIGHT TO DEVELOPMENT AND THE PREVENTION OF HUMAN RIGHTS VIOLATIONS

22. One of the purposes of the United Nations is the achievement of "international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all ..." (Article 1, paragraph 3, of the Charter). In this spirit, human rights-based development cooperation can be used as an effective tool for the prevention of human rights violations in the long term.

23. The 1993 World Conference on Human Rights, the 1997 Agenda for Development, the programme for reform of the Organization of the Secretary-General and all the final documents of the global conferences held in the 1990s have underlined that:

(a) "Actors in the field of development cooperation should bear in mind the mutually reinforcing interrelationship between development, democracy and human rights" (Vienna Declaration and Programme of Action, Part II, para. 74);

(b) "Respect for all human rights and fundamental freedoms, democratic and effective institutions, combating corruption, transparent, representative and accountable governance, popular participation, an independent judiciary, the rule of law and civil peace are among the indispensable foundations for development" (Agenda for Development (General Assembly resolution 51/240, annex), para. 27);

(c) "Developments in the present decade have underscored that human rights are inherent to the promotion of peace, security, economic prosperity and social equity Governments increasingly recognize that respect for human rights, including the right of women, is a precondition for political stability and socio-economic progress" (programme for reform, (A/51/950), para 194)

24 The relationship between development and human rights is best articulated in article 1, paragraph 1, of the Declaration on the Right to Development, which states that

> "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized "

25 The circular relationship between development and human rights very often leads to the question is the advancement of human rights a condition for development, or is development a condition for the full enjoyment by people of their human rights?

26 It might be argued that since sustainable development cannot be attained without respect for human rights, the promotion and protection of human rights must be a central element of development cooperation In turn, a culture of human rights and of favourable conditions for the enjoyment by people of their human rights through development cooperation is a tool for the prevention of future human rights violations

27 Arguably, to adopt a human rights approach to development-related issues, such as eradication of poverty, social development, macroeconomic policies (including structural adjustment policies, debt and debt "forgiveness" negotiations, international trade relations and regulations, codes of conduct for transnational corporations, international investment, transfer of technology, etc), good governance, democracy, environmental protection and post-conflict reconstruction, would by itself lead to the building and strengthening of an institutional and operational framework for the promotion and protection of human rights.

28 The 1986 Declaration on the Right to Development provides guidance for realizing development and human rights in a complementary and comprehensive manner, according to which international cooperation is a duty of the international community; in this framework, international cooperation should focus on the elimination of obstacles to development resulting from failure to observe civil, cultural, economic, political and social rights and the formulation of international development policies for ensuring development and eliminating obstacles thereto

29 Recognition that development cooperation and human rights are closely linked has led the United Nations and a number of its partners in the development area to move towards the concrete integration of the human rights dimension in development cooperation and assistance programmes The following elements are the cornerstones of effective, human rights-based development cooperation

(a) Better cooperation and coordination between United Nations agencies, including the Bretton Woods institutions, focusing on rights-based cooperation for development; and

(b) The need for all actors involved in development cooperation - including donors, recipient Governments, non-governmental organizations - to adopt a human rights approach to development cooperation.

30. With respect to better cooperation and coordination between United Nations agencies, the United Nations has taken initiatives in this direction which should be strengthened, such as the common country assessment/United Nations Development Assistance Framework (CCA/UNDAF) process, the proposal for a Comprehensive Development Framework and the Human Rights Strengthening (HURIST) programme operated jointly by UNCHR and UNDP.

31. In addition, United Nations agencies and the Bretton Woods institutions should get more involved in the implementation of the various mandates of the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights relating to development cooperation: foreign debt, the right to development, structural adjustment policies, extreme poverty, impunity for violations of human rights, globalization, human rights and international trade, investment and finance policy and practice, etc.

32. While the above mandates are traditionally seen as belonging to the human rights sphere, the need to move from conceptual debates towards operationalization makes it necessary for specialized and operational agencies to provide technical and expert support to the various special rapporteurs and experts of the Commission, e.g. through the identification of obstacles that have to be overcome for the integration of human rights in development cooperation, and of policies and programmes for concrete action.

33. All actors involved, including donors, recipient Governments and NGOs, should adopt a human rights approach to development cooperation. At this level also steps have been taken.

34. For example, a number of development agencies have integrated human rights as a core element of development cooperation and a framework for their activities. One development agency justifies this new policy as follows:

> Human rights is a development objective,
>
> Development cooperation is an important instrument for promoting human rights concerns,
>
> A minimum standard of human rights is a prerequisite for development and development cooperation, and
>
> Human rights are binding standards under international law.

35. However, the adoption by donors of a human rights-based approach to development is not enough. Negotiations and better understanding between donors/development agencies and recipient countries on the most sustainable and human-centred use of the resources allocated are prerequisites for building a favourable environment for the promotion and protection of human rights with a view to achieving development based on the enjoyment by individuals and peoples of their human rights.

IV. PREVENTION OF GROSS VIOLATIONS OF CIVIL AND POLITICAL RIGHTS

36. In 1947, the Institute of International Law adopted a resolution calling for the re-establishment and restoration of international law on the foundation of human rights. Since the adoption of the Universal Declaration of Human Rights in December 1948, the United Nations has been in the forefront of efforts to adopt an international human rights regime and to create a universal culture of human rights, in which violations of human rights would be monitored and, ultimately, prevented.

37. As it has evolved over the past 50 years, the United Nations human rights programme has itself developed elements of a comprehensive early-warning system, not least through the numerous monitoring activities it implements and services. Arguably, the numerous country-specific and thematic special procedures mechanisms of the Commission on Human Rights (34 by 1999) are a core element of these activities. Emergencies require prompt responses, and an effective special procedures system should be in a position to serve as a reliable early-warning mechanism and help prevent recurrent patterns of human rights violations. Within the United Nations system, there is an abundance of early-warning data, but, all too often, only limited follow-up.

38. In his 1993 report, the former Special Rapporteur on extrajudicial, summary or arbitrary executions warned that the situation in Rwanda had deteriorated to such an extent as to raise the distinct possibility that genocidal acts would take place, but the report, issued well before the onset of genocide in Rwanda in April 1994, was not paid sufficient attention to. This example shows that early warning in and of itself is not enough. And none of the existing mechanisms are of preventive value if the international community does not accept that human rights violations can be both a symptom and a cause of further escalation of conflicts, and if it does not muster the political will to act preventively.

39. In September, when addressing the Security Council on the occasion of the presentation of the Secretary-General's report on protection of civilians in armed conflict, I observed that the best protection for civilians in armed conflict is prevention. The principal elements for peace-building and reconciliation are good governance, the rule of law, respect for human rights, a strong civil society, and institutions strong enough to maintain an environment conducive to stability and peace. The special procedures of the Commission can make important contributions to the strengthening of these elements.

40. As High Commissioner, I have repeatedly stressed that an emergency response capacity in my Office is required to cope with unforeseen emergency country situations with a bearing on country-specific or thematic special procedures mandates. Accordingly, my Office is examining options for creating an emergency response task force, which would collate and analyse early-warning data and bring serious incidents and violations to the immediate attention of the appropriate United Nations human rights mechanisms. The task force should evaluate OHCHR's experience with the conflicts in the Great Lakes region, in Kosovo, Sierra Leone and East Timor, in order to determine the lessons to be learned in responding to emergencies. It should guide the process of developing procedures and a concrete programme of emergency response; in so doing, it should draw upon the experience of other organizations, including UNHCR and ICRC.

41 Since the World Conference on Human Rights, the special procedures mechanisms of the Commission have been complemented, in a number of instances, by the establishment of field presences in a number of countries, e g Angola, Burundi, Cambodia, Colombia, Georgia/Abkhazia, the countries of the former Yugoslavia and Sierra Leone, to name but a few Field presences are designed to assist the host Governments in promoting human rights, to monitor, where appropriate, human rights violations, and to help strengthen the rule of law

42 My Office is equally considering the establishment of regional and subregional presences, a principal function of which would be to monitor early-warning signals and present options to the Office for emergency response activities The New York office should assume a more active role in participating in the work of the United Nations early-warning mechanism

43 As far as the United Nations human rights treaty-based procedures are concerned, the very existence of the human rights treaty bodies, with their mechanism of review of periodic States parties' reports, provides an opportunity for continued monitoring of what States parties to the Covenants and other relevant conventions do to protect the human rights of individuals under their jurisdiction In their concluding observations on periodic reports, the treaty bodies insist that appropriate publicity be given to their observations, as well as to the State party's report, with a view to informing and educating civil society about their rights In the recent pact, the treaty bodies have developed their preventive functions and procedures they routinely request, in concluding observations, that States parties develop preventive strategies to enhance respect for civil and political rights through education, affirmative action, anti-discrimination legislation, or training of law enforcement officers

44 On a parallel track, the individual complaints procedures under the Optional Protocol to the International Covenant on Civil and Political Rights, article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination have afforded the treaty bodies concerned an opportunity to concretize the scope and meaning of the provisions of the respective treaties Domestic tribunals are beginning to be cognizant of the decisions of the treaty bodies, thereby reinforcing the quasijudicial character of the latter

45 Arguably, by creating a truly universal human rights case law, the treaty bodies help prevent human rights violations in specific situations Prevention in individual cases has been achieved through the application of interim measures of protection adopted by the Human Rights Committee under rule 86 of its rules of procedure, by the Committee against Torture under article 108 (9) of its rules, and by CERD under its "urgent action" procedure Through such interim decisions, the treaty bodies (as well as some of the Commission's special procedures mechanisms such as the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Working Group on Arbitrary Detention) have obtained temporary or permanent relief for countless potential victims in cases concerning, for example, stays of imminent execution, commutation of death sentences, or deferrals of extradition, expulsion or deportation orders

V. FUNDAMENTAL STANDARDS OF HUMANITY

46. Over the last 50 years, and especially since the end of the cold war, the decrease in the number of international armed conflicts has been offset by an increase in the number of civil wars and other situations of internal violence, which are characterized by massive and systematic violations of human rights. These include indiscriminate killings, summary and arbitrary executions, torture and cruel, inhuman or degrading treatment, arbitrary arrests, rape and abduction. Children are recruited as soldiers, girls and women are the targets of sexual abuse and gender-based violence, and innocent civilians are killed, seriously injured and permanently disabled. Situations of internal violence also provoke large movements of refugees and internally displaced persons whose circumstances are often exacerbated through the loss of vital needs for survival such as security, shelter, medical care and access to food and water. For society, the lives destroyed and the opportunities lost undermine even the best efforts to achieve security and economic progress and have a devastating impact on long-term stability and development.

47. In situations of internal violence, the lines of responsibility for the atrocities committed are often blurred. Acts of violence are perpetrated by militias, a multitude of armed groups, and armed individuals with total contempt for the most fundamental human rights and the traditional rules and principles governing warfare. In some countries, the lack of clear lines of command is compounded by the absence of Government. The safety of victims and relief workers is at stake and the work of humanitarian personnel and peacekeeping forces is often hampered, thereby, seriously undermining effective humanitarian action.

48. In the last two decades, situations of internal disturbance or strife characterized by a serious disruption of the internal order, tensions and acts of violence have become more frequent in a growing number of countries. It has been argued that, despite the existence of a highly complex network of existing human rights norms and humanitarian rules and principles, there is a need to address the lack of protection of persons in situations of internal violence because they fall outside the scope of common article 3 and Additional Protocol II to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts and because the effective implementation of human rights may be limited by derogations in exceptional circumstances. This has led to the proposal of the Commission on Human Rights to identify fundamental standards of humanity which would reflect both international human rights and humanitarian law applicable in all situations and to all parties. In this way, fundamental standards of humanity would not only ensure additional protection of persons in situations of internal violence but also contribute to preventing the gross and systematic violations of human rights which characterize internal conflicts and wars.

49. Three major proposals to strengthen the protection of persons at all times, and thereby prevent gross and systematic violations of human rights, can be highlighted. The first pertains to the full implementation of all human rights, in particular non-derogable rights. Although human rights are applicable at all times, including during situations of internal violence, some human rights treaties allow States, in exceptional circumstances, to derogate from their obligations with regard to certain human rights commitments. It is precisely during periods of internal strife, serious civil unrest or insurgency that the probability that human rights guarantees will be

suspended is highest. There is, however, a series of rights contained in the International Covenant on Civil and Political Rights which are non-derogable, including the right to life; the right not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; the right not be held in slavery or servitude; the right not to be imprisoned for failure to perform a contractual obligation; the right not to be subject to retroactive penal measures; the right to recognition as a person before the law; and the right to freedom of thought, conscience and religion. The implementation of non-derogable rights at all times is crucial for the protection of human rights and the prevention of violations thereof. In this respect, the treaty bodies can and should play an important role, through appropriate recommendations in their concluding observations on States parties' reports, or requests for emergency or ad hoc reports.

50. The second proposal concerns the rapid ratification by States of the Rome Statute of the International Criminal Court in order to ensure that perpetrators who commit any of the three "core crimes" - against humanity, genocide or war crimes - are brought to justice. This will extend the rule of law, encourage national court systems to prosecute such crimes and, hopefully, deter the perpetration of the most serious violations of human rights in peacetime, situations of internal violence and during war.

51. Thirdly, gross and systematic violations of human rights in situations of internal violence may be prevented through the dissemination of information pertaining to existing human rights standards and humanitarian rules and principles as well as education and training programmes in the area of international law. These may be targeted at the police, the armed and security forces, law enforcement officials, as well as humanitarian and peacekeeping personnel and the public. Promoting human rights and humanitarian law may also be undertaken through the provision of advisory services and assistance to Governments in implementing international standards at the national level.

VI. PREVENTION OF SLAVERY

52. The wide range of violations of rights which characterize cases of slavery, servile status, bonded labour, prostitution, trafficking, forced labour, and, early and forced marriages places a heavy obligation on Governments, as well as intergovernmental institutions, to take firm and rapid action to remedy any cases which are brought to their attention. One requirement of international law is that Governments legislate to abolish any of the forms of exploitation characterized as slavery, servile status, or forced labour. Virtually all Governments have adopted such legislation, as far as slavery and institutional practices such as debt bondage and serfdom are concerned. Even though many Governments have been willing to take the step of declaring the abolition of slavery or institutions such as debt bondage, they have not followed up formal abolition in law with any practical action to secure the freedom of the victims, their rehabilitation, or the protection of potential victims.

53. Victims of slavery and slavery-like practices frequently belong to minority groups, particular racial groups or categories of people who are especially vulnerable to a wide range of discriminatory acts, including women, children, indigenous people, people of "low" caste status and migrant workers. Governments have a particular obligation to ensure that individuals from such vulnerable groups are not victims of discrimination, that their rights are recognized and protected, and that they do have access to effective remedies and rehabilitation measures.

54 The circumstances of the enslaved person are crucial to understanding and identifying what constitutes slavery Certain factors must be considered, including the degree of restriction of the individual's inherent right to freedom of movement and the degree of control over the individual's personal belongings

55 It is clear that constraints on control and ownership, often inflicted with the threat of violence and accompanied by ongoing abuse, are central to identifying the existence of slavery The migrant worker whose passport has been confiscated by his or her employer, the child sold into prostitution or the "comfort woman" forced into sexual slavery - all have the element of choice and control over their lives taken away from them and transferred to a third party, either an individual or a State

56 As intimidation, coercion, or force are frequently adduced as a reason for characterizing particular forms of exploitation as slavery, the questions of economic imperatives - a need for money or income - and social constraints - lack of health care, illiteracy - and absence of information and awareness are pertinent Protection of the civil, political, economic, social and cultural rights of people are at the core of the fight against slavery-like practices Moreover, the role of corruption and its root causes should be taken into account in the perpetuation of slavery

57 In cases of bonded labour, some bonded labourers might be able to escape their bonded status by leaving the community in which the person responsible for their bondage (their employer) has influence No physical forms of constraint or barriers prevent them leaving Economic and social considerations, however, along with a lack of awareness of what might happen to them and their families, mean that they do not leave

58 Although the list of slavery-like practices and related abuses is endless, some particular issues should be focused on and possible preventive actions identified accordingly The issues (the list is far from exhaustive) including serfdom and bonded labour, forced labour, debt bondage, migrant workers, forced marriage and the sale of wives, child labour and child servitude

A Traditional slavery

59 One example of a country where traditional slavery persists is the Sudan A preventive action could be to disarm militias which abduct people for enslavement Another is Mauritania, which has received a great deal of attention from human rights bodies

B Serfdom and bonded labour

60 Various initiatives have been taken in recent years under the title of "ethical trading" to ensure that multinationals and other companies responsible for importing products into industrialized countries are not buying products of forced labour from companies which work for them on a "subcontractual" basis Preventive measures involve inspections by independent monitors of various aspects of the production process Important literature exists in that regard which has received some publicity in relation to child labour, but the procedures concerned are probably just as important for preventing forced labour it is just that child labour is sometimes more visible than forms of forced labour such as serfdom and debt bondage

C. Forced labour

61. The term "forced labour" refers to virtually every form of slavery. It also applies specifically to forced prison labour. In the framework of the World Trade Organization (WTO), limits are set regarding the trade in goods made by prison labour. Even though various States have legislation preventing the import of such goods, control over the production and export of such goods should be reinforced.

D. Debt bondage

62. Debt bondage is often an expression of power relations, not simply a reflection of the poverty of some categories of workers. Workers who are paid less than it costs them to survive (i.e., the cost of food, lodging, essential health care, etc.) are bound to depend on others for support. In situations where support is not available workers are likely to seek credit from either moneylenders or their employer.

63. In addition to International Labour Conventions Nos. 95 and 117 which protect labourers from being forced into debt by their employers or moneylenders, and which include the vital provision of limiting the amount which an employer can pay to a worker as an advance, thus preventing the employer from bonding the worker (in many countries the law allows no more than one or at most two months' wages to be paid in advance), the three main preventive techniques could be: (i) provision of "micro credit", (ii) organizing bonded labourers so they can protect themselves and call for recognition of their basic rights, and (iii) ensuring that released bonded labourers are fully rehabilitated and do not return to bonded labour.

64. In view of the prevalence of bonded labour among the landless in rural areas, Governments may in some instances have to reform the existing land tenure systems in order to comply with their obligations under the conventions on slavery to prevent debt bondage.

65. Debt bondage is also an international phenomenon affecting many migrant workers. The marked increase in international travel for employment opportunities has increased the risk of migrant workers being forced to work to repay an agency fee of an undetermined amount, i.e., becoming victims of debt bondage.

66. In addition to legislation to abolish debt bondage and to extinguish debts which have been incurred, Governments must ensure that once bonded workers are freed they must not return to bonded status by promptly assuming another loan. The systems introduced by certain legislation provide for the State to make payments to individuals who have been identified as bonded. This practical measure helps prevent the process starting again. Governments must take steps to monitor the incidence of debt bondage, not only in countries where bonded labour has been a long-term practice, but also where it may be occurring in the context of migrant workers being forced to repay airfares or other costs. If repayment arrangements are not clear, action must be taken to protect the worker. Moreover, State should make sure that salaries are sufficient in order to prevent workers from assuming another loan.

67. Information campaigns directed at potential victims of exploitation are necessary. Some countries, such as Brazil, Ukraine and the Philippines, have put such campaigns into place. In the particular case of the Philippines, a programme has been developed for Filipinas recruited as domestic workers in other South-East Asian countries. Similarly, every woman scheduled to be married abroad is supposed to attend an "orientation course" to warn them of the risks (of "mail-order brides", etc.).

E. Migrant workers

68. Governments should enforce the call of the Working Group on Contemporary Forms of Slavery upon employers not to take possession of workers' passports or other key documents (in Brazil for example, where no passport is involved, employers keep important insurance documents which workers cannot leave without). A vital form of preventive action for all migrants appears to be to ensure that they are not left alone or isolated, i.e. that some freedom of association is respected and that consulates closely monitor their migrant nationals.

F. Forced marriage and sale of wives

69. Various existing United Nations standards which appear to be largely ignored would have a preventive effect if they were respected. These include the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 1962, and the Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 1965. In relation to the relatively recent phenomenon of girls brought up in industrialised countries being sent back to their parents' country of origin and forced to marry there, the consular authorities appear to have an important preventive role.

G. Child labour and child servitude

70. The International Programme on the Elimination of Child Labour of ILO (ILO/IPEC) is in the process of publishing a handbook on the issue which covers prevention. Preventive measures already discussed in the international arena range from providing free education to children, protecting freed children, and offering economic and social alternatives to the families of those children. The adoption in June 1999 of World Forms of Child Labour Convention (No. 182) is, of course, a milestone in this area.

VII. PREVENTION OF TRAFFICKING IN WOMEN AND CHILDREN

71. Each year, hundreds of thousands of individuals - the majority women and children - are tricked, sold, coerced or otherwise procured into situations of exploitation from which they cannot escape. These women and children are the commodities of a multi-billion-dollar transnational industry. The human rights dimensions to trafficking are evident. Trafficking and related practices such as debt bondage and forced prostitution and servitude violate the most basic human rights to which all persons are entitled, including the right to life; the right to dignity and security; the right to just and favourable conditions of work; the right to equality and non-discrimination; the right to health; the right to be recognized as a person before the law. These are rights which all individuals possess, irrespective of sex, nationality, social status, occupation or any other difference.

72. The development of effective and realistic preventive strategies against trafficking requires an understanding of its root causes. These include economic factors such as poverty, food scarcity, unemployment, indebtedness and the widening gap between rich and poor countries; social and cultural factors such as violence against women and girls, gender discrimination in the family and the community and by the State; political and legal factors such as lack of appropriate legislation, lack of political will and public sector corruption; and international factors including the growing feminization of labour migration on the one hand and increasingly restrictive immigration policies of recipient countries on the other, the rapidly expanding global sex industry and the increased power and involvement of transnational organized criminal networks. Uniting all of these different "causes" are the discrimination and inequality which serve to prevent women and girls from exercising power over their lives.

73. Trafficking is not a "typical" human rights problem in the sense that the perpetrators are overwhelmingly private individuals. However, international law is clear on the point that the State can also be held responsible for failures to act which lead to violations of recognized rights, even if these violations are committed by private persons or groups. A State that refuses to acknowledge the existence of a trafficking problem, that enacts legislation or pursues policies inimical to its resolution, or that fails to extend basic protections to victims would be legally responsible for the resulting human rights violations.

74. At the national level, preventive strategies must include strong legislation and effective law enforcement as well as protections for the trafficked persons. In addition to assisting in the identification and prosecution of traffickers, sound legal provisions will encourage national and inter-State reporting and promote uniformity in data collection and analysis. It is particularly important that the crime of trafficking is precisely defined in national law and that detailed guidance is provided as to its various punishable elements. Provision should be made for effective, proportional and dissuasive criminal penalties (including custodial penalties giving rise to extradition in the case of individuals). Certain protections should be enshrined in legislation, specifically, legal protection of the right of trafficked persons to reside temporarily in the destination country pending completion of judicial proceedings and provision for trafficked persons to be given information and legal assistance as well as appropriate social support. Legislation should prevent trafficked persons from being prosecuted for the illegality of their entry or residence or for the activities they perform as a consequence of their status as trafficked persons.

75. Effective law enforcement is critical to prevention. Despite the huge numbers involved, it is apparent that only a small fraction of traffickers are reported or apprehended, let alone prosecuted. Instances of official collusion with traffickers are also not unknown. Moreover, while law enforcement would obviously benefit from the cooperation of victims and community members, many individuals are reluctant or unable to report traffickers and serve as witnesses, often fearing or mistrusting police and other officials and unable to count on any protection from the authorities. Effective anti-trafficking law enforcement requires skill, vigilance and commitment. It is also necessary to create incentives for trafficked persons and others to come forward to report traffickers.

76. Trafficking is of course a regional and a global phenomenon which cannot be dealt with solely at the national level: a strengthened national response can often just mean that the operations of traffickers are moved elsewhere. There is increasing recognition of the important role which cross-border cooperation can play in breaking the cycle of trafficking. Such cooperation is particularly important between countries of origin and countries of destination. Governments of countries of origin and countries of destination should be encouraged to establish bilateral agreements aimed at preventing trafficking and protecting the rights of trafficked persons. Such agreements could also provide for minimum work standards, model contracts and modes of repatriation. Judicial cooperation between States in investigations and judicial processes relating to trafficking and similar offences should also be encouraged as well as assistance in the exchange of related information and the adoption of common prosecution methodologies. Consideration should be given to developing regional and subregional treaties on trafficking.

77. At the international level, a number of important preventive initiatives are in existence and others are under development. The human rights treaty bodies - particularly the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women - and the special procedures - particularly the Special Rapporteur on violence against women - are playing an increasing role in highlighting the problem of trafficking and in proposing ways of combating it. Within the United Nations itself, several agencies and programmes, including my Office, UNDP, UNICEF, ILO and the Centre for International Crime Prevention have developed anti-trafficking programmes. An important protocol, attached to the draft convention against transnational organized crime, is being negotiated under the auspices of the United Nations Commission on Crime Prevention and Criminal Justice. I consider this an important step forward and have personally urged the States involved in this drafting process to ensure that the final text of the protocol on trafficking represents a net advance for trafficked persons and their rights.

78. Good laws, strong law enforcement, and improved cooperation between States will clearly help to prevent trafficking. However, additional prevention strategies, developed on the basis of an understanding of the motivations behind trafficking, are also necessary. The underlying root causes of trafficking, outlined above, should be openly and honestly addressed. Failure to come to terms with these (admittedly more difficult) issues will prevent other preventive efforts from achieving any significant success. Governments of countries of origin have an obligation to ensure that potential migrants are properly informed about the risks of migration. They should also review national laws, policies and practices with a view to identifying and rectifying all forms of discrimination on the basis of sex. Particular attention should be paid to discrimination in relation to economic and social rights. Countries of destination should examine ways and means by which they can provide increased opportunities for legal, gainful and non-exploitative labour migration and should examine the effect on women of repressive and/or discriminatory immigration and migrant labour laws.

79. At the bilateral, regional and international levels, development cooperation should focus on fighting poverty and discrimination through the adoption of a rights-based approach and ensuring the integration of a gender perspective. Development cooperation with countries of origin should specifically address the issue of trafficking through, for example, promoting

alternative income-generating options for vulnerable women and helping Governments to develop social support programmes for families at risk. Development cooperation should also support NGOs working in trafficking, particularly local and national programmes aimed at assistance to and reintegration of victims.

VIII. PREVENTION OF VIOLATIONS THROUGH HUMAN RIGHTS EDUCATION

80. The importance of the role of human rights education - intended as "a life-long process by which people at all levels in development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies" (General Assembly resolution 49/184) - in the context of the realization of basic human rights cannot be ignored. Indeed, universal human rights can only be achieved through an informed and continued demand for human rights protection by the people.

81. Human rights are promoted through three dimensions of education efforts:

(a) Knowledge: provision of information about human rights and mechanisms for their protection;

(b) Values, beliefs and attitudes: development of values, beliefs and attitudes which uphold human rights. Human rights education can promote a change in negative attitudes or reinforce positive attitudes and behaviour so that the need and the importance of protecting and promoting human rights in the course of one's daily life and professional duties are deeply understood and assumed. Where there have been rapid social and economic changes, human rights education can encourage responses consistent with human rights standards;

(c) Action: encouragement to take action to defend human rights and prevent human rights abuses. Human rights education empowers individuals to defend their own rights and those of others. It develops an understanding of everybody's common responsibility to make human rights a reality in each community.

82. Accordingly, human rights education constitutes an essential contribution to the long-term prevention of human rights violations and thus to the prevention of conflicts, and represents an important investment in the achievement of a just society in which all human rights of all persons are valued and respected.

83. All members of society have a role to play in protecting and promoting human rights. Accordingly, human rights education efforts should aim at as wide an audience as possible, including:

- All levels of formal education: professional and technical training programmes as well as at pre-school and primary, secondary, university and other institutions of higher learning levels of education;

- Various groups in need of human rights education, including vulnerable groups, professional groups more likely to affect human rights advocacy and influential persons/groups in the society, in order to promote awareness of sectoral-based human rights challenges and actions to enhance human rights practices,

- The general public, with a view to increasing public and professional access to and awareness of human rights standards, mechanisms of protection and human rights conditions locally, nationally and internationally, through the mass media and informal education techniques.

84. In order to promote and focus human rights educational activities, in 1994 the General Assembly proclaimed the United Nations Decade for Human Rights Education (1995-2004) during which Governments, international organizations, national institutions, non-governmental institutions, professional associations, educational establishments, all sectors of civil society and individuals are encouraged to establish partnerships and to concentrate efforts on human rights education, training and public information.

85. The international Plan of Action for the Decade (which I have been called upon to coordinate) sets out detailed objectives for the international community: the assessment of needs and formulation of effective strategies; the building and strengthening of programmes and capacities for human rights education at the international, regional, national and local levels; the coordinated development of effective materials; the strengthening of the role and capacity of the mass media; and the global dissemination of the Universal Declaration of Human Rights.

86. Updated information on progress made in each of these components is provided in the report of the Secretary-General to the Commission on Human Rights on the implementation of the Plan of Action for the Decade (E/CN.4/2000/93). As far as my Office is concerned, the following strategy has been adopted in order to contribute to the Decade's objectives:

(a) Establishment of ad hoc partnerships, within specific projects, with other agencies in the United Nations system (in particular, UNESCO and its National Commissions, the Department of Public Information and its United Nations Information Centres, UNDP and its national offices and the International Telecommunication Union (ITU)) and with others (regional intergovernmental organizations, national institutions, human rights institutes and NGOs);

(b) Encouragement of human rights education initiatives being undertaken by other partners of the Decade, including through active participation;

(c) Strengthening of national capacities for human rights education, including through the organization of training activities and the facilitation of information-sharing at the regional level, within the Technical Cooperation Programme in the Field of Human Rights;

(d) Provision of support to grass-roots activities, through the ACT (Assisting Communities Together) Project;

(e) Development of education, information and training materials, which are disseminated to OHCHR's mailing list and through existing networks of both governmental and non-governmental organizations.

IX. COMBATING IMPUNITY AS A PREVENTIVE APPROACH

87. The adoption of the Genocide Convention encouraged the work of the United Nations International Law Commission on a draft international criminal code and court. However, during the long cold war years, this work never reached fruition. Even on the domestic front, there were few trials for genocide or crimes against humanity. In fact, aside from the International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973, little development in terms of norms or implementation seemed possible until, in the new post-cold war climate, the Security Council took bold action to establish the International Criminal Tribunals for the Former Yugoslavia and the International Tribunal for Rwanda, in 1993 and 1994 respectively. Each Tribunal is authorized to prosecute individuals for genocide and crimes against humanity, among other categories of crimes under international law.

88. Moreover, they paved the way for the adoption, on 17 July 1998, of the Rome Statute of the International Criminal Court at the United Nations Diplomatic Conference. The rationale behind the permanent International Criminal Court agreed to in Rome, designed to be complementary to the domestic legal systems of States parties, is to ensure that individual perpetrators do not escape criminal justice where the State is unwilling or unable to prosecute.

89. As the international community has realized, an International Criminal Court could provide the necessary objectivity and independence to concentrate on the real issue of criminal responsibility and the need to counter impunity where serious violations are perpetrated. A universal International Criminal Court can help expose the truth about atrocities committed in a particular territory. By the fair and objective application of criminal law to individual suspects, the Court can reduce the kind of social mistrust where each side to a conflict holds the entire other side responsible, rather than the responsible individuals on both sides. Hopefully, the Court will also be able to ensure restitution or reparation as provided for in its Statute. All these advantages may help eliminate the climate of impunity and help promote national reconciliation in countries rent by deep national, ethno-cultural or religious conflict.

90. Unlike the ad hoc international tribunals, which basically apply retrospectively to crimes already committed, an effective standing International Criminal Court can deter potential perpetrators from committing crimes under international law in future. Deterrence, if backed by a credible threat of sanction, can contribute to conflict prevention.

91. The agreement reached in Rome shows one area in which the international community is moving in the right direction. However, international criminal law enforcement will not be enough. The international community must act to prevent genocide and other serious human rights violations on a much broader front.

X. CONCLUDING OBSERVATIONS

92. The quest for the prevention of gross violations of human rights and of conflicts is a defining issue of our times. As we begin the new millennium, it must be a matter of the utmost priority that we seek, at the national, regional and international levels, to develop societies fashioned in the image of the international norms on human rights. The universal implementation of human rights, economic, social and cultural as well as civil and political, is the surest preventive strategy and the most effective way of avoiding the emergence of conflict.

93. In this report, I have taken some of the issues currently featuring on the agenda of the Commission on Human Rights and have sought to show that there is considerable room for preventive strategies. I am aware of the discussions in the Security Council on prevention through early warning, peacemaking, peacekeeping and peace-building and I have had occasion to advance some thoughts on this process which I shall not repeat here. Suffice it to say that it is my firm conviction that the evolution of a human rights situation is often a barometer of conflict, and I believe it would assist the Security Council in its efforts to prevent conflicts to use this barometer. I am also aware of the development of conflict prevention and related mechanisms in regional and subregional organizations such as the Organization of African Unity, the Economic Community of West African States, the Southern African Development Community, the Association of South-East Asian States, the Organization for Security and Cooperation in Europe, the Organization of American States and others.

94. To return to the human rights arena specifically, preventive measures currently in use include: urgent appeals by special rapporteurs and thematic mechanisms; requests by treaty bodies for emergency reports; the urgent discussion of situations in bodies such as the Committee on the Elimination of Racial Discrimination; the indication of interim measures of protection under petitions procedures for which treaty bodies are responsible; the urgent dispatch of personal envoys of the Secretary-General, the High Commissioner for Human Rights, or of other organizations; the urgent dispatch of human rights and humanitarian observers or fact-finders; the establishment of international courts; and proposals for the establishment of a rapid reaction force.

95. It is my intention, as part of the process of strengthening our capacity for preventing gross violations of human rights, to devote particular attention to strengthening these areas of our activities and to seek the assistance of partners as a matter of priority for: the maintenance of a list of eminent persons who can be called upon to offer their good offices to help defuse situations where gross violations of human rights appear imminent; the development of a capacity for the rapid dispatch of human rights and humanitarian observers or fact-finders in situations of need; the dispatch of personal envoys of the High Commissioner to incipient crisis situations; the submission of urgent reports to the Bureau of the Commission on Human Rights; and the submission of urgent reports to the Secretary-General with the request that he consider making them available to members of the Security Council.

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Item 5 of the provisional agenda

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Situation in occupied Palestine

Report of the Secretary-General

1. At its fifty-fifth session, the Commission on Human Rights adopted resolution 1999/55, entitled "Situation in occupied Palestine". In this resolution, the Commission, inter alia, reaffirmed the continuing and unqualified Palestinian right to self-determination, including the option of a State, and looked forward to the early fulfilment of that right. It requested the Secretary-General to transmit the resolution to the Government of Israel and all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-sixth session, all information pertaining to the implementation of the resolution by the Government of Israel.

2. In accordance with these requests, the Secretariat, on 28 June 1999, addressed a note verbale to the Minister of Foreign Affairs of Israel and to all other Governments requesting information pertaining to the implementation of the resolution by the Government of Israel.

3. No reply had been received at the time of the preparation of the present report.

4. The Department of Public Information undertook the activities enumerated in document E/CN.4/2000/23, paragraph 4.

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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, submitted by Mr. Enrique Bernales Ballesteros, Special Rapporteur, pursuant to Commission resolution 1999/3

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Executive summary

The report of the Special Rapporteur to the Commission on Human Rights refers to information received from various States on mercenary activities and on their position with regard to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly on 4 December 1989. It also mentions the Special Rapporteur's visit to the United Kingdom of Great Britain and Northern Ireland between 25 and 30 January 1999 and gives a detailed account of the Special Rapporteur's visit to the Republic of Cuba between 12 and 17 September 1999.

The Special Rapporteur sets forth how his visit to Cuba at the invitation of the Government of that country enabled him to confirm in situ that various attacks had been carried out on hotels and tourist facilities in Havana in 1997, that the attacks had been carried out by foreigners for financial gain and that the persons concerned had been recruited, trained, hired and funded by third parties of Cuban origin acting outside the territory of the Republic of Cuba. The Special Rapporteur describes in his report his interviews with the persons detained for carrying out the attacks, of eyewitnesses and victims, as well as meetings with the Cuban authorities. The Special Rapporteur concludes that the attacks in question were designed to inflict high-profile damage on tourist flows to Cuba, thereby flouting fundamental rights of the Cuban people and basic principles of international law.

The report also looks at private firms providing security services and military assistance and concludes that the intervention by these firms in armed conflicts and the recruitment and hiring of mercenaries by these firms are harmful to the international order and should not be tolerated. The Special Rapporteur recommends that agreements should be reached to regulate military security at the international and national levels and to regulate these firms.

Lastly, the report points out that, 10 years after the International Convention against the Recruitment, Use, Financing and Training of Mercenaries was adopted by the General Assembly, only 19 States have ratified or acceded to it, whereas 22 are needed for it to enter into force. The Special Rapporteur requests the Commission on Human Rights to appeal once more to all States to become parties to the Convention, so as to help close the legal loopholes that currently facilitate the use and proliferation of mercenaries.

Introduction

1 At its fifty-fifth session, the Commission on Human Rights adopted resolution 1999/3 of 23 April 1999 in which it recognized that armed conflicts, terrorism, arms trafficking and covert operations by third Powers, inter alia, encouraged the demand for mercenaries on the global market. The Commission reaffirmed that the use of mercenaries and their recruitment, financing and training were causes for grave concern to all States and violated the purposes and principles enshrined in the Charter of the United Nations. The Commission welcomed the adoption by some States of national legislation that restricted the recruitment, assembly, financing, training and transit of mercenaries and also welcomed the cooperation of those countries that had extended an invitation to the Special Rapporteur.

2 The Commission called upon all States that had not yet done so to consider taking the necessary action to ratify or accede to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and urged them to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries. In particular, it urged all States to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State, or dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right to self-determination of peoples.

3 The Commission requested the Special Rapporteur to report, with specific recommendations, his findings on the use of mercenaries to undermine the right to self-determination to the Commission at its fifty-sixth session. It urged all States to cooperate fully with the Special Rapporteur in the fulfilment of his mandate and requested the Secretary-General to provide him with all the necessary assistance. The Commission also requested the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of mercenary activities on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that were affected by the activities of mercenaries.

4 The Commission also requested the Secretary-General to invite Governments to make proposals towards a clearer legal definition of mercenaries. The Secretary-General had complied with this request by sending a note verbale dated 29 October 1999 to all States Members of the United Nations. In this connection, the Commission also requested the United Nations High Commissioner for Human Rights to convene expert meetings to study and update the international legislation in force and to put forward recommendations for a clearer legal definition of mercenaries that would make for more efficient prevention and punishment of mercenary activities. The possibility of convening those meetings in the first six months of 2000 and 2001 is being studied.

5 On 16 November 1999, the Third Committee of the General Assembly also adopted a resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, which has programme budget implications

if the Office of the United Nations High Commissioner for Human Rights is to be able to carry out the activities requested, particularly the convening of expert meetings and the requested publication.

6. Pursuant to the provisions of resolution 1999/3, the Special Rapporteur has the honour to submit this report for the consideration of the Commission on Human Rights.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Implementation of the programme of activities

7. The Special Rapporteur visited the United Kingdom of Great Britain and Northern Ireland from 25 to 30 January 1999, in response to an official invitation from the Government of that country. During his visit, the Special Rapporteur was able to meet senior officials of the United Kingdom Government, members of Parliament, academics and experts and representatives of non-governmental organizations (NGOs). The Special Rapporteur wishes to express once again his gratitude to the Government for its invitation and its support during the visit, to the United Nations Information Centre in London for its unflagging support, and to the representatives of Amnesty International (United Kingdom Section), International Alert, the Royal Institute of International Affairs at Chatham House, the Centre for Defence Studies of King's College and the Campaign against Arms Trade for their valuable cooperation. An account of the visit can be found in the report submitted by the Special Rapporteur to the General Assembly (A/54/326, paras. 21-37).

8. The Special Rapporteur submitted his report (E/CN.4/1999/11) to the Commission on Human Rights on 23 March 1999 and returned to Geneva on three occasions, from 31 May to 3 June, from 16 to 20 August and from 7 to 10 December 1999, to take part in the sixth annual meeting of special rapporteurs and special representatives, chairpersons of working groups and independent experts of the Commission on Human Rights and to prepare his reports for submission to the General Assembly and the Commission on Human Rights. During his stay in Geneva, the Special Rapporteur held consultations with representatives of various States and meetings with NGOs, as well as coordination meetings with the Thematic Mechanisms Unit of the Activities and Programmes Branch of the Office of the United Nations High Commissioner for Human Rights.

9. The Special Rapporteur had the opportunity to take part in an important academic forum on private security firms and military and security service companies in Africa, held on 12 March 1999 in Washington, DC. The forum was organized by the NGOs International Alert and Global Coalition for Africa and brought together academics and scholars in that field, military experts, lawyers, diplomats, experts on international law, human rights experts and members of NGOs working on the issue. The Special Rapporteur also travelled to New York to submit his report (A/54/326) to the Third Committee of the General Assembly on 21 October 1999.

10. In response to an invitation from the Government of the Republic of Cuba, the Special Rapporteur undertook an official mission to that country from 12 to 17 September 1999. An account of the visit appears in chapter II of this report. The Special Rapporteur would like to

thank the Cuban Government and the various academic, lawyers', tourist and other non-governmental organizations in Cuba for their full cooperation, as well as the local office of the United Nations Development Programme (UNDP) for its assistance.

B Correspondence

11 Pursuant to General Assembly resolution 53/135 of 9 December 1998 and Commission on Human Rights resolution 1999/3 of 23 April 1999, the Special Rapporteur sent a communication on 15 July 1999 to all States Members of the United Nations, requesting the following:

(a) Information on the existence of any recent mercenary activities (recruitment, financing, training, assembly, transit or use of mercenaries);

(b) Information available to the Government on participation by nationals of its country as mercenaries in committing acts against the sovereignty of other States, against the exercise of the right of other peoples to self-determination and in human rights violations;

(c) Information on the possible existence of mercenary activities in the territory of another State from which actions are carried out that affect or potentially affect the sovereignty of its own country, the exercise of the right of its people to self-determination and its enjoyment of human rights;

(d) Information on the possible participation of mercenaries in committing internationally wrongful acts such as terrorist attacks, forming and supporting death squads and paramilitary organizations, trafficking in and abduction of persons, drug trafficking, arms trafficking and smuggling;

(e) Information on domestic legislation currently in force and on international treaties to which the country is a party, outlawing mercenary activities and the use of mercenaries, together with observations on the Government's position regarding the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

(f) Suggestions which, in the Government's view, might be of use in enhancing the international treatment of the topic of prohibiting the use of mercenaries; and

(g) Information and views on international security service and military advice and training companies offering their services to Governments, in order to intervene in internal armed conflicts with the assistance of mercenarized military professionals for the purpose of improving the military effectiveness of government forces, in exchange for cash benefits and shares in the investments and economic ventures of the country in which they operate.

12 The replies of the Governments of Costa Rica and El Salvador to the questionnaire are reproduced in the report of the Special Rapporteur to the General Assembly (A/54/326, paras. 11 and 15).

13. By letter of 30 July 1999, Mr. Petros Kestoras, Deputy Permanent Representative of Cyprus to the United Nations Office at Geneva, sent the Special Rapporteur a copy of Act No. 14 (III)/93 of 21 May 1993 recording the ratification by the Republic of Cyprus of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

14. By note verbale of 31 August 1999, the Permanent Mission of Slovakia to the United Nations Office at Geneva provided the Special Rapporteur with the following information:

> "Valid legal regulation relating to the performance of military service of the citizens of Slovakia in a foreign army results from paragraph 42 of the Act of the National Council of the Slovak Republic No. 351/1997 Coll. on Military Service (hereinafter the 'Act on Military Service').
>
> "In accordance with paragraph 42, section 1, of the above-mentioned Act on Military Service, a citizen can perform military service in a foreign army only with authorization from the President of the Slovak Republic. A citizen granted such authorization is exempt from military service in the armed forces of the Slovak Republic during the performance of military service in the foreign army. After termination of the performance of military service in the foreign army, he is subject to conscription in accordance with the Act on Military Service.
>
> "In accordance with paragraph 42, section 2, of the Act on Military Service, the authorization expires if a State, the army of which a citizen joined, is at war with the Slovak Republic or with a State with which the Slovak Republic has concluded an agreement on common defence against attack.
>
> "In accordance with paragraph 42, section 3, of the Act on Military Service, a citizen addresses an application for the authorization to perform military service in a foreign army to the Ministry of Defence, which shall submit it (together with its views or recommendations) to the President of the Slovak Republic.
>
> "In accordance with paragraph 42, section 4, of the Act on Military Service, there is no possibility of appeal against a decision of the President of the Slovak Republic on authorization to perform military service in a foreign army or on cancellation of the authorization to perform military service in a foreign army.
>
> "In 1999, the Ministry of Defence received three applications for service in the French Foreign Legion and three applications for service in the Yugoslav Army. As to the applications for service in the French Foreign Legion, the Ministry of Defence recommended acceptance of these applications. With regard to the three applications for service in the Yugoslav Army, the Ministry of Defence did not recommend acceptance."

15. By note verbale of 25 October 1999, the Government of Chile transmitted the replies of the Ministry of Defence and the Ministry of the Interior to the questionnaire sent out by the Special Rapporteur, as follows:

"(a) The General Staff of the Ministry of Defence reports that there is no indication whatsoever that any members of the defence institutions have taken part in mercenary activities in matters of the nature concerned;

"(b), (c) and (d) In the area of defence, there is no information on or evidence of any activities of the kind mentioned in these three questions;

"(e) With regard to domestic legislation, attention is drawn to articles 6 and 7 of the 1980 Political Constitution of the Republic of Chile (reproduced below), which regulate what is known in constitutional law as the 'rule of law':

> *'Article 6. The action of the organs of the State must be subject to the Constitution and the norms established in conformity therewith.*
>
> *'The heads and members of these organs, as well as all persons, institutions or groups, are bound by the precepts of this Constitution.*
>
> *'Breach of this principle will generate responsibilities and sanctions to be determined by the law.*
>
> *'Article 7. The organs of the State operate validly within their field of competence, and in the manner described by law, after proper investiture of their members.*
>
> *'No magistracy, person or group of persons may assume, even on the pretext of extraordinary circumstances, any other authority or rights other than those expressly conferred on them by the Constitution or by the law.*
>
> *'Any act contravening this article is null and void and shall give rise to responsibilities and sanctions to be indicated by the law.'*

"Moreover, article 90, in chapter X of the Constitution on the armed forces, forces of order and public security, provides that:

> *'The forces dependent on the ministry responsible for national defence are constituted solely and exclusively by the Armed Forces and the Forces of Order and Public Security. The Armed Forces consist of the army, navy and air force only. They exist to defend the nation, are essential for national security and guarantee the institutional order of the Republic.'*

"Likewise, article 92 of the Political Constitution states the following:

> *'Article 92. No person, group or organization may possess or own arms or other similar elements indicated by a law approved with a qualified quorum, without due authorization granted in conformity with the latter. The ministry responsible for national defence or a body depending thereon shall be entrusted with the supervision and control of arms in the manner determined by the law.'*

"In Chile, therefore, any activity that contravenes domestic legislation, such as the creation or use of a group of mercenaries, is prohibited under the above-cited rules.

"The Ministry of the Interior adds the following: 'This Ministry has no information whatsoever to suggest that any activities of a mercenary nature have been carried out in Chile in the recent past. Nor is there any evidence at all that mercenary activities are being carried out in other countries with the aim of affecting the sovereignty of Chile, the exercise of the Chilean people's right to self-determination and their enjoyment of human rights. Similarly, there is nothing to indicate that Chilean nationals are participating as mercenaries in committing acts against the sovereignty of other States. The Ministry of the Interior is not carrying out any studies and has had no occasion to apply the domestic legislation currently in force with regard to outlawing mercenary activities and the use of mercenaries.'"

16. By letter of 27 October 1999, Mr. Amiran Kavadze, Permanent Representative of Georgia to the United Nations Office at Geneva, transmitted the following reply, prepared by Mr. Rusudan Beridze, Under-Secretary for Human Rights Issues of the National Security Council of Georgia, to the questionnaire sent out by the Special Rapporteur:

"(a) No mercenary activities whatsoever have been conducted by the Government of Georgia, nor exist on the territory of Georgia, except those that may occur on territories that are currently beyond the control of the Government of Georgia (e.g. Abkhazia);

"(b) Certain inhabitants of Abkhazia who conducted terrorist acts and genocide against the ethnic Georgian population allegedly participated in the conflict in Chechnya, Russia;

"(c) Mercenaries from the Northern Caucasian regions of Russia, Russian nationals, participated in the conflicts in Abkhazia, Georgia and South Ossetia, Georgia, and contributed to genocide of the ethnic Georgian population and infringed on the sovereignty of Georgia;

"(d) No information available;

"(e) Georgia is a party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly on 4 December 1989;

"(f) Acknowledging separatism as a plague and the greatest challenge to the country and its denial as a tool for self-determination, robust use of peace enforcement, bringing to international tribunals persons who have committed war crimes against humanity and those who have conducted genocide and separatism;

"(g) No information available."

17. By letter of 6 September 1999, Mr. Canistas Kananura, Chargé d'Affaires a.i. of Rwanda to the United Nations Office at Geneva, sent the following information to the Special Rapporteur:

> "Allow me to inform you that I have sent a copy of your letter to my Government for further information but I can assure you here and now that my country does not recruit mercenaries, finance mercenaries or train mercenaries.
>
> "With regard to the participation of nationals of my country in human rights violations, there are some Rwandans who have committed genocide and who are in the Democratic Republic of the Congo and other countries in the Great Lakes region where they take part in and organize acts that are serious human rights violations and are used as mercenaries in the armies of some countries in the region.
>
> "I cannot give you any more information at the moment but I hope to have more details in the days to come."

18. In 1999, the Special Rapporteur continued to receive the cooperation of various NGOs including Amnesty International, Human Rights Watch and International Alert. He also received communications from, inter alia, the Bahrain Human Rights Organization, the Muttahida Quami Movement (MQM), the Royal Institute of International Affairs at Chatham House and the Organization for Defending Victims of Violence in Tehran. The Special Rapporteur expresses his appreciation for the cooperation of these NGOs in the fulfilment of his mandate.

II. VISIT BY THE SPECIAL RAPPORTEUR TO THE REPUBLIC OF CUBA

A. Activities carried out during the visit

19. The Special Rapporteur undertook an official mission to the Republic of Cuba from 12 to 17 September 1999, in response to an invitation from the Government of that country contained in a letter of 15 October 1998 from Mr. Carlos Amat Fores, Permanent Representative of Cuba to the United Nations Office at Geneva. He was accompanied on his visit by Mr. Miguel de la Lama, a staff member of the Office of the United Nations High Commissioner for Human Rights. The schedule for the visit is contained in the annex to this report. During the mission, the Special Rapporteur was able to meet Mrs. Maria de los Angeles Flórez Prida, Deputy Minister for Foreign Affairs, General Abelardo Colomé Ibarra, Minister of the Interior, Dr. Roberto Díaz Sotolongo, Minister of Justice, Mr. Ibrahim Ferradaz, Minister of Tourism, Dr. Rubén Remigio Ferro, President of the People's Supreme Court, Dr. Juan Escalona Reguera, Attorney-General of the Republic, and General Alvaro López Miera, Deputy Minister and Chief of Staff of the Revolutionary Armed Forces.

20. The Special Rapporteur was also able to meet Mr. Abelardo Moreno and Mr. Juan Antonio Fernández, Director and Deputy Director, respectively, of the Multilateral Issues Department of the Ministry of Foreign Affairs, Mr. Pedro Fanego Sea, an official of that Ministry, Dr. José Peraza Chapeau, Legal Director of the same Ministry, with whom he discussed the possible procedure for accession by Cuba to the 1989 International Convention, Colonel Adalberto Raveiro García, Head of the Judicial Investigation Department of the

Directorate-General of Counter-Intelligence of the Ministry of the Interior, who presented him with a file summarizing terrorist activities against Cuba in the 1990s. A meeting with Dr. Eusebio Leal, Havana City Historian, was particularly instructive.

21. In addition to these meetings, the Special Rapporteur was able to visit the tourist locations where the explosive devices had been planted - the Copacabana, Meliá-Cohiba, Tritón, Nacional de Cuba and Capri hotels, the Ache discotheque in the Meliá-Cohiba hotel and the Bodeguita del Medio restaurant, where he was able to make a visual inspection and observe the power of the explosive devices that had been set off. The Special Rapporteur also talked to several witnesses and some of the victims.

22. The Special Rapporteur was also able to conduct private interviews in the Villa Marista detention centre, without witnesses, of the persons accused of planting the explosive devices. An account of these interviews appears in section B of this chapter.

23. Lastly, the Special Rapporteur wishes to place on record that he was able to speak absolutely freely to various residents of Havana, members of professional, social and cultural organizations, and professionals and others working in the tourist sector. The opportunity to address an academic workshop on the issue of mercenarism and the development of its theoretical definition, organized by the Union of Jurists of Cuba, was particularly welcome. The Special Rapporteur particularly appreciated the valuable papers presented by Dr. Olga Miranda Bravo, Prof. Miguel D'Estéfano Pisani and Dr. René Quirós Pires, to whom he would like to express his gratitude.

24. The Special Rapporteur would like to thank once again the authorities of the Republic of Cuba for their invitation and for their cooperation during his official mission; he wished to thank in particular the officials of the Multilateral Issues Department of the Ministry of Foreign Affairs and the Permanent Mission of Cuba to the United Nations Office at Geneva. He would also like to express his gratitude to the United Nations Resident Coordinator in Cuba and Resident Representative of the United Nations Development Programme (UNDP), Mr. Luis Gomez-Echeverri, the Deputy Resident Representative, Mr. Jorge Chediek, and Mrs. Sara Almer, the staff member who acted as focal point for the mission in UNDP.

25. The Cuban authorities informed the Special Rapporteur that Cuba had been subjected to terrorists attacks and mercenary aggression ever since the Revolutionary Government had come to power. In the 1990s alone, armed men had infiltrated the country by sea on eight occasions with the intention of carrying out terrorist attacks, there had been seven attacks from the sea on tourist facilities and Cuban vessels had been hijacked and attacked by pirates on several occasions. Between 1995 and 1998, 30 explosive devices had been planted, of which 19 had been detected in time and 11 had exploded.

26. The following cases were reported to the Special Rapporteur:

(a) In 1976, mercenaries recruited by Luis Posada Carriles (alias Ignacio Medina) shot down an aeroplane of the Cubana de Aviación company in Barbados, killing 73 people,

(b) Arnaldo Monzón Plasencia, an executive of the Cuban-American National Foundation, together with Gaspar Jiménez Escobedo and Guillermo Novo Sampoll, recruited, hired and financed Santos Armando Martínez Rueda and José Enriquez Ramírez Oro to plant an explosive charge of 1 38 kilograms of C4 plastic explosive in a hotel in Varadero The latter persons entered Cuban territory on forged Costa Rican passports and were paid US$ 8,000 for their services,

(c) Orfiris Perez Cabrera, a Cuban citizen, was paid US$ 20,000 to poison cattle, vandalize foreign cars and carry out attacks on tourist facilities in Havana,

(d) On 12 April 1997, a device made with C4 plastic explosive exploded in the toilet of the Ache discotheque in the Melia-Cohiba hotel in Havana On 30 April, another device containing 401 grams of C4 plastic explosive was discovered on the fifteenth floor of the same hotel,

(e) Four people were injured on 12 July 1997 as a result of almost simultaneous explosions in the reception areas of the Capri and Nacional de Cuba hotels,

(f) Another bomb went off on 4 August 1997 in the reception area of the Melia-Cohiba hotel,

(g) On 22 August 1997, a device exploded in a corridor in the Sol Palmeras hotel in Varadero,

(h) On 4 September 1997, Fabio di Celmo, an Italian citizen, was killed and seven other people injured as a result of explosive devices planted in the Copacabana, Triton and Chateau Miramar hotels and in the Bodeguita del Medio restaurant,

(i) A device containing 178 grams of plastic explosive was found and deactivated on 19 October 1997 inside a minibus intended for the use of tourists, and

(j) Lastly, on 30 October 1997, another bomb, located under a kiosk in José Martí international airport, was detected and deactivated

27 The explosive devices used, and the way in which they were smuggled into Cuba, show many similar characteristics The devices are made with C4 plastic explosive, triggered by electric detonators made of aluminium, with timers connected to batteries of between 3 and 9 volts and with electric interphase circuits The components are cheap and the mechanisms easy to assemble They are also very difficult to discover and detect, even in airport customs areas The plastic explosive was smuggled in the soles of boots or inside hand cream, shampoo or deodorant bottles, the electric circuits inside radios from which the speakers had been removed, and the detonators inside highlighters with no internal liquid

28 The Cuban authorities said there were more than 300 organizations in foreign countries trying to overthrow the Government of Cuba They singled out the following organizations the Former Political Prisoners Club, Comandos L, the National Democratic Unity Party (PUND), the Association of Cuban-American Veterans, and Alpha 66 However, these organizations were

allegedly financed and used as a front by a secret security wing of the Cuban-American National Foundation, referred to as the Cuban National Front, Security Commission or Paramilitary Group. It was stated that the following people allegedly belonged to this secret security group: Luis Zúñiga Rey, Alberto Hernández, Luis Posada Carriles (alias Ignacio Medina), Horacio García, Roberto Martín Pérez, Francisco José Hernández Calvo, Guillermo Novo Sampoll, Ignacio Novo Sampoll, Arnaldo Monzón Plasencia and Afredo Domingo Otero.

29. The Special Rapporteur was told that Luis Zúñiga Rey recruited, on behalf of the secret security group of the Cuban-American National Foundation, Percy Francisco Alvarado Godoy, of Guatemalan origin, to do some research in Cuba to identify vulnerable points that could be targets for possible attacks and to circulate in the country forged banknotes in Cuban convertible currency. He also recruited Orfiris Pérez Cabrera, a Cuban citizen, to carry out a series of sabotage activities in Cuba. Another person with links to the above-mentioned secret organization, Luis Posada Carriles (alias Ignacio Medina), recruited Otto René Rodríguez Llerena, a Salvadoran citizen, to plant explosive devices in tourist facilities in Havana. Rolando Borges Paz allegedly recruited Juan Francisco Fernández Gómez to carry out attacks with explosives in Cuba. The activities were abortive because both Fernández Gómez and Alvarado Godoy were former Cuban agents.

30. The Cuban government officials emphasized in particular that the planning of the attacks pointed to a single mastermind which, they believed, was to be found in the above-mentioned secret security or paramilitary organization of the Cuban-American National Foundation. The tourist sector had been chosen because it was the country's prime source of income, having increased from 340,000 tourists in 1990 to 1,700,000 in 1999. It is also a sector that is highly sensitive to news and publicity, particularly with regard to a country's security. Big-name hotels such as the Meliá-Cohiba hotel and tourist spots of worldwide renown such as the Bodeguita del Medio restaurant had been chosen so that the attacks would make a major impact in the international media. The bombs had been planted not inside bedrooms but in meeting places like reception areas in order to increase the impact of the attacks.

31. Lastly, the representatives of the Cuban Government said that, fortunately, there had been no serious incidents since October 1997. They attributed this to the cooperation and vigilance of the people of Cuba and particularly of the workers in the tourist centres, and to the preventive measures taken by the police. However, such measures cost more than the people should have to pay to maintain security in the country. The aggression came from outside Cuba and the mercenaries had no collaborators inside the country.

B. Interviews of those responsible for the attacks

32. The Special Rapporteur was able to interview in private, without witnesses, Raúl Ernesto Cruz León, aged 28 and of Salvadoran nationality. Cruz León told the Special Rapporteur that, on the morning of 12 July 1997, he left the Ambos Mundos hotel where he was staying and headed with an explosive device for the Hotel Nacional de Cuba intending to set it off there. He changed his mind when he saw the security arrangements inside the hotel and headed then towards the Hotel Capri. He prepared the explosive in a toilet near the hotel

reception and placed it behind an armchair in the reception area, the bomb being programmed to explode in nine minutes. He then went back to the Hotel Nacional de Cuba, where he placed another explosive device in the reception area next to some telephone booths. Both bombs exploded.

33. Cruz Leon went back to San Salvador on 14 July 1997 and returned to Cuba on 31 August 1997, after which he spent his time checking out other hotels as possible targets. On 4 September 1997, he left bombs in a metal ashtray in the bar of the Copacabana hotel, behind an armchair in the reception area of the Chateau Miramar hotel and in the reception area of the Triton hotel, even though he saw that there were some children in the latter place. The three bombs went off. He then planted another explosive device behind a refrigerator in the Bodeguita del Medio restaurant. He was arrested some hours later. Although the bomb planted in the Bodeguita del Medio had not yet gone off, Cruz Leon did not tell the police about it and it exploded. When questioned by the Special Rapporteur, he said he had not told the police about it in the hope that they would think someone else was responsible for the explosions, since he was under arrest.

34. During the interview, the Special Rapporteur was able to observe that Cruz Leon was a man who had been traumatized by violence. Cruz Leon said that from his childhood in El Salvador, he remembered bodies thrown down by the roadside during the years of armed conflict. He had been marked by the last offensive of the Farabundo Marti National Liberation Front in San Salvador which had passed through the neighbourhood in which he lived, and by the subsequent military attack on the Jose Simeon Cañas Central American University, during which Father Ellacuria and other Jesuits belonging to the University were killed. He had developed a strong liking for danger and, in his own words, for the "rush of adrenalin". This had led him to embark on a military career in El Salvador, and he had been a cadet at the General Gerardo Barrios Military Academy in 1991. He had given that up, however, as he did not want to become involved in the political problems of his country and because he could not adapt to military discipline. Subsequently he had taken up high-risk sports and the study and collection of weapons.

35. Cruz Leon told the Special Rapporteur that he had been recruited to plant the explosive devices in Havana by a certain Francisco Antonio Chávez Abarca, with whom he had a friendly relationship based on a shared enthusiasm for firearms and explosives. Chávez Abarca told him that he himself had already planted bombs in hotels in Cuba, that it would not be difficult and that he would be paid US$ 3,700 for the first two bombs he exploded. Chávez Abarca supplied him with all the materials needed to make the bombs, including C4 plastic explosive, took care of all the logistic preparations for his trips, including the relevant visa formalities through the Joanessa travel agency, and gave him US$ 500 for travel expenses. On his return from his first trip to Cuba, he was given US$ 3,000 by Chávez Abarca, so that he was still owed US$ 700. While under arrest, he tried several times to contact Chávez Abarca through his father, Francisco Chávez, his wife, Karla, and his brother, Mario Chávez. Finally, Chávez Abarca telephoned him from Guatemala to tell him he was sending him US$ 100 for his defence. While in prison, Cruz Leon learned that the bomb he had planted in the Copacabana hotel had killed the Italian citizen.

36. Cruz Leon told the Special Rapporteur that he had acted for money and had felt like a hero in a film carrying out a mission. He had tried to put the bombs in places where they would not cause any casualties. His instructions from Chávez Abarca had been simply to make as much noise and create as much confusion as possible. It was only recently in prison that he had understood the implications of his actions and he asked forgiveness of the victims and their families and the people of Cuba. He did not think he deserved to be executed for what he had done as he had cooperated with the police and judicial inquiries and had expressed remorse during the trial.

37. The Special Rapporteur also interviewed Otto René Rodríguez Llerena, a Salvadoran citizen aged 42, a company director and head of security at the Salvadoran vehicle-sales company Didea SA. Rodríguez Llerena told the Special Rapporteur that he had been approached by Ignacio Medina for help in getting a good deal for the purchase of a vehicle from Didea SA. That was the beginning of their friendship, during which Medina offered to pay Rodríguez Llerena US$ 1,000 if he planted a bomb in Havana. Medina took care of all the formalities and preparations for Rodríguez Llerena's trip, provided him with explosives and taught him how to assemble the bomb. On 3 August 1997, Rodríguez Llerena planted an explosive device in the reception area of the Meliá-Cohiba hotel and returned to San Salvador the next day. Medina then gave him the equivalent of US$ 1,000 in Salvadoran colones.

38. Rodríguez Llerena returned to Havana on 10 June 1998 at the request of Medina, who gave him explosives to be delivered to a Cuban citizen called Juan. For transporting the explosives, Rodríguez Llerena was to receive US$ 250 plus his travel expenses. He was arrested on arrival, when the airport customs found the explosives he was carrying. Rodríguez Llerena told the Special Rapporteur that he had acted purely for the money, although the amounts he was offered do not appear very large. At the same time, he gave the impression that he was quite well off in his own country. He also stated that he had followed various military training courses, both in El Salvador and in Fort Benning, United States of America.

39. It is worth mentioning that, during the pre-trial proceedings, Rodríguez Llerena was shown a video recording in which Luis Posada Carriles appeared. Rodríguez Llerena told the Special Rapporteur that he knew the person in question as Ignacio Medina, which seemed to indicate that the person concerned used the two identities.

40. The Special Rapporteur also interviewed the following Guatemalan nationals: Nader Kamal Musallam Baracat, aged 30, unmarried, no known occupation; María Elena González Meza de Fernández, aged 55, married, fortune teller; and Jazid Ivan Fernández Mendoza, aged 30, married to Mrs. González Meza de Fernández. In separate interviews, these individuals made the following basic statement: that the Salvadoran national Francisco Antonio Chávez Abarca, also known as Manuel González, and Mr. Musallam Baracat often made use of Mrs. González Meza de Fernández's fortune-telling services in Guatemala City. In February 1998, Chávez Abarca suggested that the three above-named persons should go to Cuba in order to plant bombs in tourist facilities. Only Fernández Mendoza refused. Chávez Abarca agreed to pay Musallam Baracat US$ 3,000 and Mrs. González Meza de Fernández US$ 2,200 for their services.

41 On 4 March 1998, Musallam Baracat and Mrs. Gonzalez Meza de Fernández arrived in Havana from Cancún, Mexico. Musallam Baracat was arrested in the customs area at José Martí airport when he was found to be carrying explosives. Mrs. Gonzalez Meza de Fernández, who was carrying the detonators, was able to pass through customs but arrested some hours later. Fernandez Mendoza was arrested some days later when he arrived in Havana to look for his wife. Forensic tests later showed traces of explosives on his hands - a result, he said, of having helped his wife to pack. Both Musallam Baracat and Mrs. Gonzalez Meza de Fernández stated that they had acted purely for money. The latter told the Special Rapporteur that she had to pay for medicine for her daughter, who was seriously ill and needed capsules costing US$ 1,000 each.

42 Lastly, the Special Rapporteur interviewed Mr. Percy Francisco Alvarado Godoy, a political science graduate aged 50. Mr. Alvarado Godoy told the Special Rapporteur that he had worked as a secret agent for State security bodies since 1977, under the aliases of Michael and, later, Frayle. He had successfully infiltrated what he described as various counter-revolutionary groups and, in particular, the Cuban-American National Foundation. He said that he had had contacts with, inter alia, Agustin Perez Medina, of the "Comandos L" organization, Luis Zuñiga Rey, of a secret paramilitary group called Frente Nacional Cubano (Cuban National Front), Alfredo Domingo Otero, of the Cuban-American National Foundation, and Luis Posada Carriles. He had agreed with these persons to carry out a series of acts of sabotage and destabilization against Cuba, although he did not in fact do so, pleading various pretexts. The planned actions included placing explosive devices (for each bomb detonated he would receive US$ 5,000), passing counterfeit currency, filming and photographing various economic targets, including the Matanzas industrial area and the Antonio Guiteras power station.

C. Information provided by the Government of Cuba

43 The Government of Cuba gave the following documents to the Special Rapporteur during his visit:

(a) A file containing a report entitled "Summary of the use made of mercenaries against Cuba during the 1990s";

(b) A file containing statements made by persons charged with terrorist acts, and by Cuban agents, to the investigating unit of the State Security Department. They include statements made by Raul Ernesto Cruz Leon, Nader Kamal Musallam Baracat, Maria Elena Gonzalez Meza de Fernandez, Jazid Ivan Fernandez Mendoza, Otto Rene Rodriguez Llerena, Santos Armando Martinez Rueda, Jose Enrique Ramirez Oro, Percy Francisco Alvarado Godoy ("Agent Frayle"), Juan Francisco Fernández Gómez ("Agent Felix") and Olga Alfonso Prada ("Agent Bertha"); and

(c) A file containing forensic reports on the explosions and official statements on the damage caused in tourist resorts, prepared by the Criminal Investigation Department of the Ministry of the Interior.

44 The Government of Cuba also gave the Special Rapporteur four videotapes containing the public statements and reconstructions of the events by Raul Ernesto Cruz León, Otto Rene

Rodriguez Llerena, Nader Kamal Musallam Baracat, Maria Elena Gonzalez Meza de Fernández and Jazid Ivan Fernandez Mendoza. The tapes also contain the public statements by Santos Armando Martinez Rueda and Jose Enrique Ramirez Oro.

45. The Permanent Mission of Cuba to the United Nations Office at Geneva later gave the Special Rapporteur two videotapes of the trials of Raul Ernesto Cruz Leon and Otto Rene Rodriguez Llerena, including the statements by the accused, the indictments by the prosecution and the defence submissions. It also handed over a file containing the Prosecutor's preliminary indictments against Miguel Abraham Herrera Morales, Maria Elena Gonzalez Meza de Fernandez and Jazid Ivan Fernandez Mendoza, as well as the expert forensic reports of the Central Criminal Laboratory of the Ministry of the Interior and a document entitled "History of the Cuban-American National Foundation (FNCA)".

D. Analysis of the attacks and identification of their mercenary nature

46. The main purpose of the visit to Cuba can be gathered from the schedule annexed to this report: to obtain first-hand information about the various attacks on Cuba's tourist facilities, particularly during 1997, and the subsequent investigations, to clarify whether the perpetrators were mercenary agents under the orders of, and financed by, agents and organizations working from outside Cuba to damage its Government.

47. The interviews with political, military and police authorities, public officials, accused persons, witnesses and victims of the attacks, and members of the public chosen at random in Havana, formed a body of first-hand material as a basis for as thorough and objective an investigation as possible into the subject assigned to the Special Rapporteur. Direct observation was also carried out of the places damaged and legal documentation and reports were prepared by Cuban officials at the Special Rapporteur's request to determine more precisely and document facts he believed needed further clarification. Moreover, the freedom of movement enjoyed by the Special Rapporteur and the openness with which those interviewed expressed their opinions made it possible for him to form an independent judgement uninfluenced in any way, a matter of importance at the stage of assessing the facts and preparing this analysis.

48. The methodology adopted was thus to concentrate on the facts and examine them objectively in order to look at issues gradually approaching the heart of the matter, so as to determine the exact nature of the attacks. In this way it was hoped to reconstruct as accurately as possible the process by which the attacks were organized, who the perpetrators were, the extent to which third parties were involved, the objectives pursued and the significance of the harm done by the violent acts involved.

49. The first point to be objectively clarified was whether Cuba had in fact been the target of bomb attacks that had injured people and damaged tourist facilities in the city of Havana. A visual inspection of the Copacabana, Melia-Cohiba, Chateau-Miramar, Triton, Nacional and Capri hotels, the Ache discotheque in the Melia-Cohiba hotel and the historic La Bodeguita del Medio restaurant, all places which still showed traces of the explosions, and the Special Rapporteur's interviews of workers in these premises, some of whom had been injured by the

explosions, left no room for doubt the bomb attacks had in fact taken place. By their magnitude, they were terrorist outrages, their aim being primarily to cause damage and sow indiscriminate terror with no concern for human life.

50. The second question that needed to be answered was whether the hotel attacks were isolated incidents or formed part of a broader strategy. In this connection, the interviews, documentation and other information gathered is also very clear: there was no suggestion of an isolated, individual and demented act. The Special Rapporteur received official statements and evidence relating to some 30 attacks that took place between 1995 and June 1998. Some were successful, others were not. In all cases, the technology used was the same. The targets selected were also all of the same type: public places and tourist facilities. Those identified as the agents or perpetrators were foreign nationals and had in fact been contacted outside Cuba by persons who, there is ample evidence to suggest, are in contact with organizations opposed to the Government of President Fidel Castro and operating from third countries, outside Cuban territory. It can thus be maintained that the attacks formed part of a major plan to attack Cuban tourist facilities and threaten the safety of Cuba's population and that of visiting tourists.

51. The third question relates to the extent of the damage and the effects of the attacks. One Italian citizen, Favio Di Celmo, was killed, a number of people who were in the immediate vicinity were seriously injured and others suffered emotional and psychological effects, for which they required medical attention. In terms of material damage, the explosive used was a plastic type known as C4, a mixture of hexogen and penthrite, which is extremely powerful and has a variable capacity for material destruction. Windows and window frames, panes of glass, doors, cornices, wood panels, electrical installations, curtains, parquet floors, flowerpots, ornaments, furniture, etc. were destroyed by the blasts. Undoubtedly, however, the greatest - and least quantifiable - damage resulted from the fact that it was a connected series of attacks whose aim was to give the world the impression that Cuba is an unsafe country, at the mercy of violent attacks.

52. The fourth question to be asked is whether these incidents have had an impact on the Cuban people's effective enjoyment of human rights? The answer is clear. No premeditated attack or violent act that causes death or injury to people, or violates their physical integrity and creates panic and insecurity can be excused, for any reason. To dispose of people's lives and expose them to danger, and to do so using a weapon of great destructive force, is terrorism and a violation of the right to life, physical integrity and security, rights that are recognized and protected by international instruments of human rights law. Respect for these rights is an obligation on all States, organizations of all kinds and all individuals.

53. The fifth question necessarily relates to the mercenary nature of the attacks. In this connection, the Special Rapporteur interviewed at some length the two Salvadoran nationals directly and personally guilty of the offences, who have been sentenced to death, the penalty provided in Cuban law for such cases. They have both appealed against the sentence and are awaiting the outcome of a review that could lead to clemency and a commuted sentence. Out of conviction and principle, the Special Rapporteur, who is opposed to the death penalty, feels obliged to place on record here his hope that clemency will be granted and that the convicted persons, who have admitted their guilt and shown signs of remorse, will have their sentences magnanimously commuted.

54 There can be no doubt, however, that the two Salvadorans and also the three Guatemalans agreed to participate in criminal acts for money in the knowledge that human lives could be lost. They have all admitted that they were "worked on" and finally persuaded to go to Cuba to detonate bombs in specific locations, with inducements ranging from US$ 1,500 to US$ 5,000 for every bomb they exploded. Some of them successfully carried out their criminal mission, others were arrested when trying to enter Cuba as tourists with the parts they would subsequently use to arm the bombs hidden in their luggage. On this point, there are plenty of police files, legal evidence, experts' reports and even the materials that were seized. On top of all that, in their confessions and admissions of guilt to the Special Rapporteur in private interviews without witnesses, they freely acknowledged that they had acted, not for ideological reasons of any kind, but for financial gain. In other words, they agreed to become mercenaries, even though they were aware, from the training they received, that the operation would not only cause general harm to another country but also endanger the lives and physical integrity of individual persons.

55 The sixth question that arose during his extensive interviews with the accused persons, the Special Rapporteur had an opportunity to assess the personalities of those involved in the bomb attacks and to understand, or at least to form a theory about, the reasons why they had been singled out for recruitment, training and hiring. All of them had clearly been studied in advance and the temptations offered had been based on an understanding of their personalities. Those who had used them were therefore confident that they could be manipulated, enticed with money and persuaded to become mercenaries. The Salvadoran Cruz Leon, for example, is a young man of 28, who was traumatized by violence from an early age, attracted to danger and to extreme risk-taking. Cruz Leon combines the memory of the mass killings he saw during the armed conflict in El Salvador with an imagination peopled by screen heroes. He therefore saw himself as a kind of "justiciary", a hero of violent deeds from which he always emerged the victor. As he admitted to the Special Rapporteur, Cruz Leon gets a particular kick from adrenaline. So travelling to Cuba carrying bombs that he then detonated, and what is more being paid to do so, was so extraordinarily exciting that he was almost totally blind to the fact that his action was intrinsically immoral and unlawful.

56 The other cases consist of people who are emotionally disturbed in their personal lives, with failed relationships or debts, or whose self-esteem has been weakened by the use of drugs. In short, they are weak personalities beset by problems, who could be - and were - manipulated and persuaded by offers of money to agree to carry out an act that is mercenary because of the payment and terrorist because of its nature and consequences.

57 The seventh question is whether the guilt is limited to those who committed the material act or whether it also extends to those who recruited, hired and trained them, provided the material to arm the bombs and instructed them on how, where and when to explode them. On this point, too, there can be no doubt, since the guilt for a mercenary act is shared between the person who engages a mercenary and whose money is used to recruit, finance and plan the committing of an offence, and the person who, for a fee, agrees to become a mercenary.

58 In this sense, the foreigners who accepted money to mount attacks in Cuba are mercenaries but those who conceived, planned, contracted and financed the attacks cannot be

absolved of responsibility. The Cuban authorities, in allegations published internationally and repeated to the Special Rapporteur, and amply and reliably documented, have named chiefly Francisco Chávez Abarca, a Salvadoran national, and Luis Posada Carriles, a Cuban by origin. Both of these are alleged to have participated in the attacks and are being held individually responsible. They have also been linked to Cuban organizations established and operating in Florida with the aim of creating problems for the Cuban Government. These organizations and members of their staff are explicitly named in the testimony given by agents Santos Armando Martínez Rueda and José Enrique Ramírez Oro.

59. According to the Government of Cuba, those organizations are centres of conspiracies to destabilize the country and carry out terrorist attacks so as to bring down Fidel Castro's Government. The role of agents operating outside Cuba was made clear by Mr. Luis Posada Carriles in statements to the New York Times and an interview with CBS during the Cruz León trial, in which he admitted that he had paid Cruz León, through one of his agents, to carry out the attacks, and that other operations were being prepared that were likely to cause serious problems in Cuba.

60. The eighth question to be asked was what was the purpose of the attacks, why they were carried out and what they were intended to achieve. It must be borne in mind that there has been a whole series of attacks on Cuban territory, always planned elsewhere. At various times, as early as 1959, their aim has been to undermine the sovereignty and self-determination of the Cuban people, and they are of international public knowledge. Some of these incidents are documented both in Cuban government files and in documents declassified in the United States of America. They were carried out through covert operations, through infiltration from abroad and through the use of mercenaries. In an interview with the Special Rapporteur, the Minister of Defence stated that 549 Cubans had died and 7,200 had been crippled in such attacks.

61. Although there have been times when the intensity and frequency of these attacks have decreased, they have never ceased to be a constant and omnipresent threat. The Minister of Tourism stated, in an interview, that the attacks on Cuban tourist centres in recent years had had the clear political objective of ruining an industry that had become one of the Cuban economy's main sources of income. According to the Minister's assessment, the economy has begun to grow again after a fall of 35 per cent in gross domestic product (GDP). It is hoped that Cuba will reach a figure of 7 million visitors a year by 2010. The Minister also said that tourism was important not only for the income it generated, since it provided work for 80,000 people directly and another 240,000 indirectly, but also because it enabled visitors from various parts of the world to get to know Cuban people and see for themselves what life is like in the country.

62. The attacks were designed, therefore, to destroy the atmosphere of tranquillity that is the prime requisite for attracting tourism or, in other words, to replace the ordered calm of normal everyday life by general insecurity and thereby generate international publicity that would discourage tourists from visiting Cuba. The undoubted aim of the series of attacks on hotels, restaurants, discotheques and summer resorts was to harm tourism and thus seriously damage Cuba's economy. As a first reaction, a number of tour operators proceeded to cancel their bookings. However, both the rapid response of the Cuban authorities and the international outcry against the attacks removed the immediate risk and enabled Cuba's tourist trade to recover to its planned levels during 1998 and 1999. Even so, it must be emphasized that a plan that is

not concerned about sacrificing human lives in order to disrupt the tranquillity of a country and destabilize its Government is totally unacceptable. Whatever the nature of a country's political regime or economic system, no one is entitled to undermine, particularly through terrorist action, the peace and security to which its people have a right.

63. The ninth question, once the facts have been assessed and the objectives, conception, planning, perpetrators and execution of the attacks established, is necessarily concerned with the evaluation of the act itself and whether its claims to legitimacy are to be accepted or rejected and condemned. It would be absurd to try and ignore the fact that vehement and radical opposition outside Cuba, to the Fidel Castro regime, especially from Cuban-American organizations in Miami, has inspired a variety of actions against the Cuban Government aimed at undermining it, isolating it, bringing it down and replacing it by one with different values and ideological orientation. It is not, and cannot be, the purpose of this report to meddle with the political polemic aroused by the Cuban regime, still less to take one side or the other. To turn aside from this course of conduct would be a serious departure from the ethical and independent position that ought to characterize the behaviour of a Special Rapporteur who, as an independent expert, prepares reports and formulates recommendations with the aim of effectively applying international human rights standards.

64. So as not to deviate by one millimetre from that course of conduct, and out of respect for the independence that a Special Rapporteur for the Commission on Human Rights must defend, this report must maintain that it is natural for any human being either to be in agreement and sympathy with, or else to find fault with or objections to, any political system whatever it may be. In the light of this principle, the right to freedom of expression or of opinion, or to take up a political position, whether inside or outside Cuba, concerning that country's political regime, must be recognized as existing, particularly as far as Cuban nationals are concerned. That is a political right recognized and protected by international human rights instruments. Wherever there is a right, however, there is also a limit to the exercise of that right, a limit that must not be transgressed by actions that exceed the right. The exercise of political rights ends where violence and terror begin. Violence and terror pervert and delegitimize opposition to a Government, the more so if such opposition is located outside the national territory and is attempting to assault the Government from abroad, through indiscriminate action to undermine the tranquillity and safety of its people and its territory, by means of acts of violence that no national or international law authorizes or legitimizes.

65. The attacks on tourist facilities in Cuba were conceived as a sustained bombing campaign that would disturb the security of Cubans living in the island and, more particularly, of foreign tourists, the plan was prepared outside Cuba with the participation of Cuban-American agents having links to organizations hostile to the Government of Cuba, and executed using foreign mercenaries who were specially recruited, hired, trained and financed. The recruitment and training of those who were to carry out the attacks took place in third countries. These attacks were terrorist acts carried out by mercenary agents and as such must be categorically condemned. By indiscriminately violating the peace and tranquillity of all those living in Cuba, particularly in Havana, and causing damage, anxiety and panic, they prevented the effective enjoyment of human rights by the population of that country.

66. There is no such thing as good or bad terrorism according to who the target is or where the terrorist act takes place. Nor are there good or bad mercenaries depending on who they fight for or against. Similarly, it is not acceptable to take up a lax or tolerant position and allow a country's territory to be used to cause problems for the Government of another country with which there are political disagreements while, at the same time, not allowing the territory to be used for terrorist actions against a friendly Government. There can be only one rule and it must be strictly applied: no State can legitimately consent to or authorize the use of its territory in planning or carrying out activities that express its own hostility to another country or Government, or permit the creation of clandestine organizations for that purpose. No distinctions can be made between degrees of proximity, friendship, ideological closeness or special interests. Failure to recognize this principle opens the doors to acts of aggression, terrorism, armed conflict and war, which the international community rejects as means of settling disputes. This is the guiding principle in all organizations of the international community that are working to ensure worldwide respect for the values, principles and standards of international law.

67. There remains a tenth and last question, that of international responsibility. Taking the assessment made to its logical conclusion, the Special Rapporteur finds it inherently unjust that, while the actual perpetrators of the attacks have been punished with the full severity of the law, those who recruited, trained and hired them, supplied the materials and explosives, provided them with papers and paid them, are still at large and enjoying full impunity in the countries where they live. These persons are participants in an ongoing offence, and perhaps bear a greater share of the guilt than the actual perpetrators. Likewise the organizations on whose account they acted. In this sense, and quite apart from any differences or coincidences that might exist between the Government of Cuba and the Governments of other countries whose territory was used in committing the offence, it is clearly necessary to initiate a judicial inquiry to establish the identities of all the natural and artificial persons involved in planning and carrying out these offences, their degree of responsibility and guilt, and the penalties to be applied. These offences began to be committed outside Cuban territory. The legal records of the trials in Cuba of the Salvadoran and Guatemalan nationals charged with being the material perpetrators of the offences give precise details of the premises, places, houses, hotels, restaurants, districts, towns, etc., where the offences were planned and prepared and where the mercenaries were recruited, hired, trained and funded.

III. PRIVATE MILITARY SECURITY COMPANIES

68. Although the central theme of this report is the Special Rapporteur's mission to Cuba, information continues to come in on the subject of private companies offering military security on the international market, and especially concerning companies that become involved in armed conflicts and recruit mercenaries for that purpose. It is important to make clear that is not the fact that there are private companies working in the area of security that gives cause for concern. Such companies may have a very positive contribution to make to military science in terms of scientific research, strategy development, technological applications, advisory services and project evaluation, etc. They have something important to say as regards ways of increasing security. The problem arises when companies of this kind try to supplant the State and its armed forces and security mechanisms, become directly involved in military actions and recruit mercenaries.

69 Companies have been reported to have signed contracts with one of the parties in an armed conflict and, in order to provide the agreed service, have hired people with military experience. This occurs in a context in which gaps in legislation mean there are no obstacles to the recruiting or hiring of mercenaries. The Special Rapporteur does not contest private companies' right to work in the area of security. However, he has pointed out that they must act within certain bounds, which they should not overstep. Anything to do with defending national sovereignty, territorial integrity, the right to self-determination and the protection of human rights, is the inalienable responsibility of the State. Private companies may not become directly involved in armed conflicts, still less recruit or hire mercenaries.

70 Unfortunately, there are States, weakened by lengthy armed conflicts, whose Governments find it difficult to assert their authority. Assisting such States to provide their armed forces and police with solid professional training and training in democracy and human rights may be an effective way of helping to reduce the risks of instability and conflict. Yet, whatever its situation or the problems it faces, the State is always responsible for national sovereignty, territorial integrity, the exercise of the right to self-determination and the enjoyment of human rights. The State cannot divest itself of its basic obligations in this area, nor can it permit the formation of private armies or the privatization of war. If that were to happen, the State would no longer have any obligation to defend peace and life and would be replaced in military matters by private companies that by definition are concerned with their own interests which are not necessarily those the State should protect and promote.

71 It is equally unacceptable, on the other hand, simply to deny private companies the legal right to operate in the sphere of military security. The appropriate course of action is to devise regulations clearly establishing the areas in which private companies may legally operate. That entails establishing in advance what the State can legitimately transfer to the private sector in terms of military security and what should remain in State hands because it is inherent to the State's very existence.

72 The denunciation of the excesses committed by some companies mentioned in previous reports by the Special Rapporteur is simply a matter of informing them that they cannot usurp State responsibilities and convincing them that there is a common interest in regulating and limiting their activities in the sphere of military security, without going so far as to suggest prohibiting their existence. In any case, it must be made absolutely clear that private security companies, including those active in military security, cannot recruit, hire, finance or use mercenaries to fight in armed conflicts.

73 If this were permitted or tolerated, there would be dangerous implications for the enjoyment of human rights. Extreme liberalism that stripped the State of such inherent functions as the defence of national sovereignty, territorial integrity, self-determination and law and order, would threaten the very principles on which the international community is built. It is therefore important to move towards wise, sensible and democratic legal regulation.

74. Not to move towards legal regulation or not to endorse the rejection of the hiring and use of mercenaries would be to send a misleading signal that the privatization of war, the formation of private armies and the intervention of paramilitary forces with a mercenary component could be tolerated. It would be but a short step from there to the abandonment of peoples to discrimination and domination.

IV. CURRENT STATUS OF THE INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES

75. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly in December 1989, will contribute to a better identification of situations involving mercenaries, the effective prosecution and punishment of offenders and the clear determination of jurisdiction in each case, and will facilitate procedures for the extradition of mercenaries and preventive cooperation among States.

76. The Special Rapporteur is obliged, however, to draw the attention of the Commission on Human Rights to the fact that, more than 10 years after the International Convention's adoption by the General Assembly, the signature or accession of three States is still needed for it to enter into force. Only 19 States have completed the process of expressing their willingness to be bound by the Convention: Azerbaijan, Barbados, Belarus, Cameroon, Cyprus, Georgia, Italy, Maldives, Mauritania, Qatar, Saudi Arabia, Senegal, Seychelles, Suriname, Togo, Turkmenistan, Ukraine, Uruguay and Uzbekistan. The following nine States have signed the Convention but have not yet ratified it: Angola, Congo, Democratic Republic of the Congo, Germany, Morocco, Nigeria, Poland, Romania and Yugoslavia. Pursuant to article 19, the International Convention is to enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General.

77. The International Convention broadens the scope of international law regarding the prohibition of the activities of mercenaries, currently limited mainly to article 47 of the 1977 Protocol I Additional to the Geneva Conventions of 1949 and the 1977 Organization of African Unity (OAU) Convention on the Elimination of Mercenarism in Africa.

V. CONCLUSIONS

78. According to the information received by the Special Rapporteur and the observations he has made during his various missions, mercenary activities continue to be carried on both through traditional means of recruitment and hiring and in new forms, including recruitment by private companies offering military security services, which take part in armed conflicts in specific countries by virtue of contracts signed with Governments.

79. Since the nature of the act and the function of mercenary have not altered, despite changes in forms and operational methods, the General Assembly, the Security Council, the Economic and Social Council and the Commission on Human Rights should continue to condemn mercenary activities, particularly when such activities have the effect of impeding the enjoyment of human rights and the exercise of the right of peoples to self-determination, and jeopardize the sovereignty of States, the principle of non-interference in internal affairs and the stability of constitutional Governments.

80. The Special Rapporteur's mission to the Republic of Cuba in September 1999 at the invitation of the Cuban Government allowed him to verify in situ that Cuba, and in particular Havana, had been the victim of several bomb attacks on tourist facilities in 1997, which resulted in the death of an Italian citizen and injuries to several other persons, as well as considerable material damage.

81. From extensive documentation, interviews and direct observation, as well as a critical assessment of the overall situation, the Special Rapporteur concludes that the perpetrators of the bomb attacks in Cuba in 1997 - some of which were carried out while others were averted in time - were Salvadoran and Guatemalan individuals who, regrettably, had agreed to commit these offences for money. This amounts to mercenary activity. In interviews with the Special Rapporteur, these individuals admitted acting for payment and receiving payment, acknowledged their guilt and showed unmistakable signs of remorse.

82. Similarly, the Special Rapporteur's inquiries and analysis have convinced him that these persons were recruited, trained, hired and used by third parties of Cuban origin resident outside Cuba who, operating from outside Cuban territory and very possibly in collaboration with organizations opposed to President Fidel Castro's Government and mainly based in Miami, planned the attacks and then directed and executed them using the mercenaries they had recruited, who entered Cuba posing as tourists. These third parties, despite their criminal liability, are still at large and continue to enjoy impunity in respect of these offences.

83. On the basis of the information collected during his official mission to Cuba, the Special Rapporteur concludes that the purpose of the attacks in question was mainly to disrupt tourism in Cuba in the most highly visible way possible, by creating a situation of general anxiety and insecurity that would cause foreign tourists to stop travelling to Cuba. Although the attacks resulted in the loss of one life, injuries and damage, they did not have the desired effect. Nevertheless, the point is that this was a use of illegal methods, which violated human rights, to change or try to change the situation in a country. Such methods are utterly opposed to international law.

84. The Special Rapporteur will keep the question of private military security companies under review, with particular emphasis on companies that attempt to become involved in armed conflicts through the recruitment, hiring, financing, training and use of mercenaries. Some of the services provided by such companies, such as general security or military training services to Governments, are fully in accordance with international law. Others, such as direct military intervention in armed conflicts by the use of mercenaries, should not be tolerated. It seems to be essential to prepare legal rules if the enjoyment of human rights and respect for international humanitarian law are to be safeguarded.

85. More than 10 years have passed since the General Assembly adopted the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, yet only 19 States have completed the process of expressing their willingness to be bound by it. For the Convention to enter into force, 22 States must ratify or accede to it. The delay leaves the door open to the growth of criminal activity by mercenaries.

VI RECOMMENDATIONS

86 In view of the persistence of mercenary activities of various kinds, the Special Rapporteur recommends that the Commission on Human Rights should continue to uphold its explicit condemnation of mercenary activities, requesting the States Members of the United Nations to give serious consideration to incorporating into their domestic criminal law provisions classifying mercenarism as a crime and making the fact of being a mercenary an aggravating circumstance in the commission of other wrongful criminal acts, especially acts of terrorism

87 The Commission on Human Rights should also seriously consider recommending to all the Member States that they explicitly prohibit any use of their territory for the recruitment, training, assembly, transit, financing or use of mercenaries

88 The Special Rapporteur also recommends that the Commission on Human Rights should remind the Office of the United Nations High Commissioner for Human Rights of the need to carry out studies and disseminate information on the adverse effects of mercenary activities on the enjoyment of human rights and the exercise of the right of peoples to self-determination Such information should point out that mercenaries usually offer as a comparative advantage of their services their greater military efficiency and the fact that they do not regard themselves as being bound to respect human rights or the rules of international humanitarian law It should thus be borne in mind that mercenaries usually show a disdain for human life and dignity and international law and consider cruelty and contempt for the human being to be virtues The participation of mercenaries in any situation in which their services are unlawful usually constitutes a serious obstacle to the enjoyment of human rights

89 The Special Rapporteur also recommends that the Commission on Human Rights should condemn the recruitment, hiring, training and financing of mercenaries to carry out bomb attacks in Havana in 1997, in order to damage Cuba's tourist industry and thereby its economy Through recourse to mercenaries, the right to life, integrity and security of the residents of Havana and their tourist visitors was violated This was an attack conceived, planned, prepared and financed from abroad, which, according to all the evidence available, received no aid, collaboration or support from anyone resident in Cuba, from which it is deduced that there was an intent to violate the Cuban people's right to self-determination

90 The Special Rapporteur has noted in the legal records the confessions of guilt by the Salvadoran and Guatemalan nationals who agreed to become mercenaries, their remorse and their explicit assistance in the inquiries, which made it possible to uncover and counter a major bombing campaign The Special Rapporteur recommends that the Cuban authorities should take these factors into account and, while nevertheless condemning mercenary activities and terrorism in the harshest and strongest possible terms, consider granting clemency and commuting the death sentences in these cases The Special Rapporteur wishes to place on record that this recommendation to the Cuban authorities is the product of a firm conviction, a position of principle and an examination of the facts and the legal records

91 The Special Rapporteur suggests that, in a spirit of strict justice and equity, and as a clear signal of its rejection of impunity, the Commission on Human Rights should recommend that

judicial proceedings be initiated in each country whose territory had been used unlawfully, given that the perpetrators have demonstrated and admitted that third parties participated and conceived the bomb attacks from outside Cuba. They drew up the plans, recruited the mercenaries, trained and financed them and provided them with the materials to carry out the attacks after entering Cuba as tourists. All this activity was carried out unlawfully on the territory of third countries, as mentioned in the relevant legal records. Those who planned and put into effect the bomb attacks, including those who recruited, hired, financed and trained the mercenaries, should be criminally prosecuted. Such proceedings would also provide an opportunity to investigate the links of these persons to organizations devoted to the export of criminal activities, with a view to neutralizing them and compelling them to observe international and domestic law.

92. It is also recommended that the Commission on Human Rights should suggest that the States Members of the United Nations be extremely careful in their dealings with private military security companies, especially those that attempt to intervene in internal armed conflicts by supplying mercenaries to one of the parties to a conflict. In that regard, the Member States should be recommended to consider the possibility of agreeing on international and domestic rules on military security.

93. Given the gaps in legislation that continue to facilitate the use of mercenaries, the increase in their numbers and the emergence of new forms of mercenary activity, the Special Rapporteur recommends that the Commission on Human Rights reiterate its call to the Member States to ratify or accede to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. This is all the more necessary in view of the fact that only three States have to ratify or accede to the Convention for it to enter into force.

Annex

SCHEDULE FOR THE VISIT TO CUBA

12 September 1999

Interview with Mr. Abelardo Moreno, Mr. Juan Antonio Fernández and Mr. José Peraza Chapeau, Director, Deputy Director and official, respectively, of the Department of Multilateral Affairs of the Ministry of Foreign Affairs

Official dinner offered by Mrs. Maria de los Angeles Florez, Deputy Minister for Foreign Affairs

13 September 1999

Coordination meeting with
Mr. Luis Gomez-Echeverri, United Nations Resident Coordinator in Cuba and Resident Representative of the United Nations Development Programme (UNDP),
Mr. Jorge Chediek, Deputy Resident Representative; and
Mrs. Sara Almer, UNDP official and focal point for the mission

The Special Rapporteur attended a workshop on "Mercenarism and the development of its theoretical definition", organized by the Cuban Union of Jurists, speakers were Dr. Olga Miranda Bravo, Dr. Miguel D'Estefano Pisani and Dr. Rene Qirós Pires

Working meeting with Colonel Adalberto Raveiro Garcia, Head of the Judicial Investigation Department of the Directorate-General of Counter-Intelligence of the Ministry of the Interior

14 September 1999

Interviews with
General Alvaro Lopez Miera, Deputy Minister and Chief of Staff of the Revolutionary Armed Forces,
Dr. Juan Escalona Reguera, Attorney-General of the Republic

15 September 1999

Interviews with
Dr. Roberto Diez Sotolongo, Minister of Justice,
Mr. Ibrahim Ferradaz, Minister of Tourism,
Dr. Ruben Remigio Ferro, President of the People's Supreme Court,
General Abelardo Colome Ibarra, Minister of the Interior

16 September 1999

Visit to tourist centres where attacks took place (Copacabana, Melia-Cohiba, Tritón, Nacional de Cuba, Capri and Chateau Miramar hotels, Ache discotheque in the Melia-Cohiba hotel, La Bodeguita del Medio restaurant).

Interviews with victims of the attacks, eyewitnesses and managers of the establishments.

Visit to the prison and interviews with the accused persons: Raúl Ernesto Cruz León, Otto Rene Rodríguez Llerena, Nader Kamal Musallam Baracat, María Elena González Meza de Fernández and Jazid Iván Fernández Mendoza.

Interview with Mr. Percy Francisco Alvarado Godoy ("agent Frayle").

17 September 1999

Interview with Dr. José Peraza Chapeau, Legal Director of the Ministry of Foreign Affairs.

Interview with the Acting Minister for Foreign Affairs.

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COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 6 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Report of the Secretary-General submitted pursuant to Commission resolution 1999/78

I. INTRODUCTION

1. In paragraph 70 of its resolution 1999/78 of 28 April 1999, the Commission on Human Rights requested the Secretary-General to submit a report to the Commission at its fifty-sixth session on the implementation of the resolution under the agenda item entitled "Racism, racial discrimination, xenophobia and all forms of discrimination". The present report is submitted pursuant to that request.

2. This report is organized around the topics referred to in the Commission's resolution. It makes reference to the specific requests contained in the resolution and the action taken to date to implement those requests.

II. IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION AND COORDINATION OF ACTIVITIES

3. The Commission, in its previous resolution on the subject, resolution 1998/26, requested that the activities of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination be focused towards the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

4 The following activities have been undertaken within the Programme of Action for the Third Decade (General Assembly resolution 49/146, annex). Reports on these activities will be submitted to the first session of the Preparatory Committee for the World Conference:

(a) A seminar of experts on racism, refugees and multi-ethnic States (Geneva, 6-8 December 1999) (paragraph 7 (h) of the Programme of Action);

(b) The completion of a study on economic factors contributing to the perpetuation of racism and racial discrimination (para. 19 (b));

(c) A study on the effects of racial discrimination on the children of minorities and of migrant workers (para. 7 (d); see also resolutions 53/132, para. 11 and 52/111, para. 10).

III. SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

5 In paragraph 35 of its resolution, the Commission requested the High Commissioner for Human Rights to undertake research and consultations on the use of the Internet for purposes of incitement to racial hatred, racist propaganda and xenophobia, to study ways of promoting international cooperation in this area, and to draw up a programme of human rights education and exchanges over the Internet on experiences in the struggle against racism, xenophobia and anti-Semitism. The Office of the High Commissioner for Human Rights (OHCHR) has undertaken a number of steps regarding this request. On 20 May 1999, the High Commissioner sent a letter to States and other organizations inviting comments and asking for information and views with regard to this subject. As at 30 November 1999, the time of submission of the present report, eight States, three intergovernmental organizations and two non-governmental organizations had replied. An analysis of these replies is being made and will be presented at the first session of the Preparatory Committee.

6 OHCHR has also incorporated an Internet component into the seminar that is to be held in February 2000 on remedies available to victims of acts of racism, racial discrimination, xenophobia and related intolerance and on good practices in this field, consisting of the submission of papers by two experts on this theme. This work builds on two previous seminars that the Office has held which focused on the question of the Internet and its use for the purpose of incitement to racial hatred, racist propaganda and xenophobia, and ways of promoting international cooperation in this area (see Report of the expert seminar on the role of the Internet in the light of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, document E/CN.4/1998/77/Add.2, and Report of the United Nations seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination with particular reference to articles 4 and 6, document E/CN.4/1997/68/Add.1).

7 OHCHR will continue its research into the question of the Internet and its use for the purpose of incitement to racial hatred, racist propaganda and xenophobia and ways of promoting international cooperation in this area. It is the intention of OHCHR to present a report to the

second session of the Preparatory Committee on the basis of its consultations and research on this subject. The technical experts with OHCHR were of the view that Internet technology is changing so fast that it would be more useful for OHCHR to submit a comprehensive report to the second session so that its findings could be used as a reference during the World Conference itself and to minimize the risk of submitting information which might be out of date in a year

8. With respect to the request in paragraph 35 to draw up a programme of human rights education and exchanges over the Internet on experience in the struggle against racism, xenophobia and anti-Semitism, OHCHR has added a new element to its current human rights education component on the home page of the Office's Web site, and also through the World Conference site which has been established within the OHCHR Web site. This new element focuses on OHCHR's work in multicultural education, the educational problems of indigenous peoples, reports of the Special Rapporteur on the right to education which analyse issues relating to racial discrimination, and reports by other mechanisms of the United Nations which address the question of racial discrimination in education and how to overcome it. The Office has also established links to other work done on this subject within the United Nations system, notably with UNICEF's research centre in Florence, Italy, which is doing a major study on the effects of racial discrimination on ethnic minorities, and the ILO's programme of research studies in the context of training and educational efforts to combat racial discrimination against migrants.

IV. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

9. Regarding the International Convention on the Elimination of All Forms of Racial Discrimination, attention is drawn to the most recent report of the Committee on the Elimination of Racial Discrimination to the General Assembly (A/54/18), which provides information on the International Convention and its application. The Committee, along with the Sub-Commission on the Promotion and Protection of Human Rights and the special rapporteurs, were invited in paragraph 61 of the Commission's resolution to participate actively in the preparatory process (see below for a summary of action taken by these mechanisms).

V. WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

10. In paragraph 49 of the resolution the Commission requested the High Commissioner to prepare questionnaires to review progress made in the fight against racism, racial discrimination, xenophobia and related intolerance and to reappraise the obstacles to further progress in the field and ways to overcome them. A note verbale with a questionnaire containing the substantive content of the request of the Commission was sent to States and organizations on 22 June 1999. As at 30 November 1999, 25 States, 3 national institutions, 5 intergovernmental organizations and 10 non-governmental organizations had replied. An analysis of these replies is being made and will be presented to the first session of the Preparatory Committee.

11. In paragraph 49 (c) the Commission requested the High Commissioner to open an Internet site on the preparations for the World Conference. A Web site on the Internet devoted to the preparations for the World Conference has been established

(www.unhchr.ch/html/racism/racism.htm). It can also be accessed from the OHCHR's home page (www.unhchr.ch) where it is prominently displayed. This Web site includes general information, an initial programme of events, a documents database, press releases and statements regarding racism, racial discrimination and the World Conference. It will be updated and expanded on a regular basis in the period leading up to and during the World Conference itself.

12. In paragraph 50 the Commission requested the High Commissioner to prepare and carry out, in close cooperation with the Department of Public Information, an effective world information campaign with a view to mobilization and support for the objectives of the World Conference. Such a campaign is being developed by the Department of Public Information (DPI), in close collaboration with the OHCHR. DPI has undertaken the following activities:

(a) The production of two fact sheets on the World Conference - one dealing with the historical background to the World Conference, i.e. international instruments on racism and racial discrimination, the three decades to combat racism and racial discrimination, and the two previous World Conferences to Combat Racism and Racial Discrimination, and one on why there is a need to hold another world conference against racism in 2001;

(b) The production of an eight-page pamphlet on the World Conference;

(c) The production of banners for use in meetings in connection with the World Conference.

13. DPI has also indicated that, once the dates of the World Conference are fixed, a poster will be produced to give maximum publicity to the time and place of the World Conference.

14. On 10 December 1999, the World Conference will be the theme of Human Rights Day and the High Commissioner is organizing, in close cooperation with DPI, a commemorative event to mark the United Nation's efforts to combat racism and racial discrimination, and to highlight the importance of the World Conference in establishing a new strategy for the twenty-first century.

15. In addition, the Universal Postal Union, at the High Commissioner's request, has stated its intention to issue a special stamp for the World Conference.

16. In accordance with paragraph 51 of the Commission's resolution, the High Commissioner has to date proposed the appointment of the following goodwill ambassadors for the World Conference: Mr. Ruben Blades (Panama), actor and singer; Ms. Marian Wright Edelman (United States of America), children's rights advocate; Ms. Vigdis Finnbogadottir, former President of Iceland; Mr. Seamus Heaney (Ireland), poet; Mr. Tahar Ben Jelloun (Morocco), writer; Mr. Ravi Shankar (India), musician; and Mr. Wole Soyinka (Nigeria), writer.

17. In paragraph 51 (b) the Commission requested the High Commissioner to include in her strategy for informing international public opinion about the World Conference an invitation to the sports world to cooperate actively as a partner in the World Conference. OHCHR has been

in contact with various international sporting organizations and is discussing with them what contribution they could make to the struggle against racism and racial discrimination in the framework of the World Conference.

18. In paragraph 51 (c) the Commission requested the High Commissioner to raise funds from the private sector. OHCHR has been active in approaching a number of private sector sources of funding and has received sizeable contributions, notably from the Ford Foundation.

19. In paragraph 51 (d) and (e) the Commission requested the High Commissioner to make full use of the services of United Nations information centres (UNIC) and to dispatch public information materials to Governments, international governmental organizations, non-governmental organizations and national institutions. DPI is using the UNIC around the world for the dissemination of the pamphlet and the two fact sheets produced for the World Conference. When the dates and location of the World Conference are finalized, DPI will also produce a poster which will be distributed through the UNIC. OHCHR will make available the public information materials produced to date during the commemorative event that is being organized for 10 December 1999, Human Rights Day, where the World Conference will be the focus of activities; these public information materials will similarly be made available during the activities planned for the International Day for the Elimination of Racism on 21 March 2000.

20. Other action by OHCHR includes the circulation to all Permanent Missions in Geneva of a note verbale dated 25 October 1999 with as attachments the declarations and programmes of action of the two previous world conferences, together with the six studies that have been prepared by members of the Committee on the Elimination of Racial Discrimination.

21. In paragraph 53 the Commission requested the High Commissioner to set up a voluntary fund designed specifically to cover all aspects of the preparatory process for the World Conference and the participation of non-governmental organizations, especially from developing countries. The voluntary fund has been opened with a special account and appeals have been made for funding.

22. In paragraph 54 the Commission requested the High Commissioner to undertake appropriate consultations with non-governmental organizations on the possibility that they might hold a forum before and partly during the World Conference. Such consultations have taken place in both Geneva and New York, and OHCHR is in regular contact with an NGO Planning Committee for the World Conference that has been established by a number of NGOs based in Geneva. The holding of an NGO forum is one of the matters being discussed.

23. In paragraphs 55 and 56 the Commission requested the High Commissioner and the Secretary-General, respectively, to provide assistance for the holding of regional preparatory meetings. OHCHR has held consultations with representatives of the regional groups regarding the holding of regional preparatory meetings. Representatives of the Office have attended meetings of the technical working group organized by the Council of Europe for the European Conference entitled "All different all equal: from principle to practice - European Contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related

Intolerance" to be held in October 2000, to which the Office will contribute a background paper. The level of financial and technical assistance that OHCHR will be able to provide will be dependent upon the number of requests which are made for this purpose and the voluntary contributions received.

24. In paragraph 61 the Commission invited United Nations bodies and mechanisms dealing with the question to participate actively in the preparatory process. With regard to the Committee on the Elimination of Racial Discrimination, the background papers prepared by individual members of the Committee, the Committee's two decisions relating thereto, and a paper on best national practices based on the Committee's examination of States parties reports will be submitted to the first session of the Preparatory Committee. Papers relating to racism and racial discrimination prepared by experts of the Sub-Commission will be submitted to the first session of the Preparatory Committee, along with the Sub-Commission's resolutions regarding its contribution to the preparations for the World Conference. The contributions of the relevant special rapporteurs are outlined below.

25. In paragraph 63 (a) the Commission requested the High Commissioner to undertake a study on ways of improving coordination between her Office and all the relevant specialized agencies and international, regional and subregional organizations. This study is being prepared and will be submitted to the first session of the Preparatory Committee. It should be added in this regard that the High Commissioner raised this issue at the second regular session for 1999 of the Administrative Committee on Coordination, held in New York on 29 and 30 October 1999.

26. In paragraph 63 (b) the Commission requested the High Commissioner to help the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to carry out a study on preventive measures relating to ethnic, racial, religious and xenophobically motivated conflicts and to formulate recommendations. The Special Rapporteur has indicated that he will submit a preliminary study on prevention to the first session of the Preparatory Committee and that he will finalize this study and submit the complete version at the second session.

27. In paragraph 63 (c) the Commission requested the High Commissioner to invite the Special Rapporteur on religious intolerance to participate actively in the preparatory process and in the World Conference by initiating studies on action to combat incitement to hatred and religious intolerance. The Special Rapporteur has indicated that he will submit one study relating to the subject of racism from the perspective of his mandate to the first session of the Preparatory Committee, and one or more studies to the second session.

28. In paragraph 65 (a) the Commission requested the High Commissioner to review progress made in the fight against racism, racial discrimination, xenophobia and related intolerance, in particular since the adoption of the Universal Declaration of Human Rights, and to reappraise the obstacles to further progress in the field and ways to overcome them. A report on this subject is being prepared and will be submitted to the first session of the Preparatory Committee.

29. In paragraph 65 (b) the Commission requested the High Commissioner to organize an international seminar of experts on the remedies available to victims of acts of racism, racial discrimination, xenophobia and related intolerance and on good national practices in this field. This seminar is scheduled to take place in Geneva from 16 to 18 February 2000 and a report will be submitted to the first session of the Preparatory Committee. The holding of this seminar is made possible thanks, in part, to a financial contribution by the Government of Switzerland.

30. In paragraph 65 (b) the Commission also requested the High Commissioner to encourage other activities, particularly seminars forming part of the preparations for the World Conference, and to submit the recommendations of these seminars to the Preparatory Committee. As stated in paragraph 4 (a) above, a seminar of experts on racism, refugees and multi-ethnic States is being held from 6 to 8 December 1999 within the framework of the activities of the Third Decade to Combat Racism and Racial Discrimination, and the report on the seminar will be submitted to the first session of the Preparatory Committee.